

## § 18. Consideration in the House

Resolutions affecting the order of business, reported from the Committee on Rules, are considered in the House, are debatable under the hour rule<sup>(10)</sup> and require a majority vote for adoption.

Reports on orders of business are called up by a member of the committee who has been authorized to do so, unless the report has been on the House calendar for seven legislative days without being called up, in which case any member of the committee may call up the resolution.<sup>(11)</sup>

There are other methods, rarely invoked, for obtaining consideration of special orders. Under Rule XI clause 24,<sup>(12)</sup> in the event an adverse report is made by the Committee on Rules on an order of business resolution, any Member of the House may call up the report and move the adoption of the resolution on days when motions to discharge committees are in order under Rule XXVII clause

4.<sup>(13)</sup> The latter provision replaced the “21-day” discharge rule which was in effect in the 89th and in previous Congresses and which permitted calling up a special order either adversely reported by the Committee on Rules or not reported within 21 calendar days after reference.<sup>(14)</sup>

Although the “21-day” rule was deleted from the rules of the 90th Congress, Rule XXVII clause 4, the regular discharge rule, provides that the Committee on Rules may be discharged from the consideration of a resolution providing a special order of business or a special rule for the consideration of any public bill or resolution favorably reported by a standing committee.<sup>(15)</sup>

On most occasions, however, a report from the Committee on Rules reaches the floor by being called up by a member of that committee who has been so authorized. Such reports are privileged for consideration, as discussed in § 17, *supra*. If the report is called up the same day reported, the House must by a two-

10. Rule XIV clause 2, *House Rules and Manual* § 758 (1979).

11. See §§ 18.1–18.5, *infra*, for calling up special orders.

12. *House Rules and Manual* § 732 (1973) [now Rule XI clause 4(c), *House Rules and Manual* § 730 (1979)].

13. *House Rules and Manual* § 908.

14. For the 21-day discharge rule, its history and effect, see § 18.52, *infra*.

15. For the application of the discharge rule to resolutions pending before the Committee on Rules, see §§ 18.44–18.50, *infra*.

thirds vote (of those Members present and voting) agree to consider it.<sup>(16)</sup> Where a privileged report is called up from the Committee on Rules on the day reported, the Speaker first puts the question whether the House shall consider the resolution (after the report has been referred to the House Calendar and ordered printed), and no debate is in order until the question of consideration is determined.<sup>(17)</sup> If the House fails to determine the question of consideration in the affirmative, the report remains on the House Calendar.<sup>(18)</sup>

The two-thirds requirement does not apply during the last three days of a session,<sup>(19)</sup> and the two-thirds voting requirement for consideration on the same day reported does not affect the requirement that a majority actually adopt the resolution.<sup>(20)</sup>

The Member who is recognized to call up a special order is recognized for one hour, which he may yield in his discretion; by custom of the Committee on Rules, the

manager of the resolution yields half of the hour to the minority.<sup>(1)</sup> If the resolution is withdrawn by unanimous consent while under debate, the Member calling it up again is recognized for a full hour.<sup>(2)</sup> But no Member may speak on a resolution from the Committee on Rules unless the Member in control yields to him.<sup>(3)</sup> The hour of debate on such resolutions may be extended by unanimous consent.<sup>(4)</sup> And under Rule XIV clause 1,<sup>(5)</sup> debate on a special order must be confined to the question.<sup>(6)</sup>

Since a resolution from the Committee on Rules is considered in the House under the hour rule, amendments are in order only if:

- (1) committee amendments are

16. See §§ 18.6, 18.7, *infra*.

17. See §§ 18.11–18.14, *infra*. The House may by unanimous consent agree to consider the report the same day reported (see § 18.13, *infra*).

18. See § 18.10, *infra*.

19. See §§ 18.8, 18.9, *infra*.

20. See § 18.7, *infra*.

1. See § 18.15, *infra*. Where the manager loses control of the resolution, the Member recognized has no compunction to divide the time (see § 18.17, *infra*, discussing circumstances following rejection of the previous question). A Member calling up a special order pursuant to the “21-day” discharge rule, no longer in effect, was also under no compunction to yield to the other side (see § 18.52, *infra*).

2. See § 18.42, *infra*.

3. See §§ 18.15, 18.17, *infra*.

4. See § 18.16, *infra*.

5. *House Rules and Manual* § 749 (1979).

6. See §§ 18.39, 18.40, *infra*, for relevancy of debate on special orders.

submitted in the report;<sup>(7)</sup> (2) the Member who has called up the resolution offers an amendment to the resolution;<sup>(8)</sup> (3) the manager of the resolution yields for an amendment;<sup>(9)</sup> or (4) the previous question is rejected.<sup>(10)</sup> But if amendments are offered in one of the ways specified, such amendments must be germane to the resolution.<sup>(11)</sup>

In the event that the previous question is rejected, the Member who led the opposition to the motion will be recognized by the Chair for one hour; the Member recognized may yield such time as he desires, may offer an amendment to the resolution, and may move the previous question on the resolution as amended. A motion to table may also be offered following the rejection of the previous question.<sup>(12)</sup>

While the resolution is under debate, it may be postponed only by unanimous consent (although

it may be withdrawn before action thereon).<sup>(13)</sup> And the motion to recommit, after the previous question is ordered, is not in order on a resolution from the Committee on Rules, although the resolution may be recommitted by unanimous consent.<sup>(14)</sup> As to the motion to adjourn, Rule XI clause 23 provides that pending the consideration of a privileged report from the Committee on Rules, only one motion to adjourn is in order.<sup>(15)</sup>

Pursuant to Rule XVI clause 6,<sup>(16)</sup> any resolution or order reported from the Committee on Rules and providing a special order of business is not subject to a division of the question but must be voted on in its entirety.<sup>(17)</sup>

### ***Calling Up Rules Committee Reports***

#### **§ 18.1 Only a member of the Committee on Rules author-**

7. See §§ 18.21, 18.22, *infra*.
8. See §§ 18.19 (generally), 18.23–18.26 (amendments offered by manager), *infra*.
9. See §§ 18.19, 18.27–18.29, *infra*. If the manager yields for amendment, he loses control and the Member offering the amendment is recognized for one hour (see § 18.28, *infra*).
10. See §§ 18.19, 18.32–18.36, *infra*.
11. See §§ 18.30, 18.31, *infra*.
12. See § 18.33, *infra*.

13. See §§ 18.37 (postponement), 18.41, 18.42 (withdrawal), *infra*.
14. See § 18.38, *infra*. Rule XVI clause 4, *House Rules and Manual* § 782 (1979), generally provides for a motion to recommit, after the previous question is ordered, on a bill or joint resolution.
15. See *House Rules and Manual* § 729 (1973) [now Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979)].
16. See *House Rules and Manual* § 791.
17. See § 18.43, *infra*.

**ized by the committee to do so may call up a report from the committee providing for a special order of business, unless the rule has been on the calendar seven legislative days without action, where any member of the committee may call it up as a privileged matter.**

On June 6, 1940, <sup>(18)</sup> Mr. Hamilton Fish, Jr., of New York, sought recognition to call up, "pursuant to Rule XI, paragraph 2, chapter 45" [Rule XI clause 4(c), *House Rules and Manual* §730 (1979)] a resolution reported from the Committee on Rules, providing a special order of business for the consideration of a bill. Mr. William M. Colmer, of Mississippi, by the direction of the Committee on Rules, had reported the resolution to the House on the same day. Speaker William B. Bankhead, of Alabama, ruled that Mr. Fish, not having been authorized by the committee, could not call up the rule for consideration:

THE SPEAKER: The Chair cannot recognize the gentleman from New York to call up the resolution unless the Record shows he was authorized to do so by the Rules Committee. The Chair would be authorized to recognize the gentleman from Mississippi [Mr.

Colmer] to call up the rule in the event the resolution offered by the gentleman from New York, which was the unfinished business, is not called up.

MR. FISH: Will the Chair permit me to read this rule?

THE SPEAKER: The Chair would be glad to hear the gentleman.

MR. FISH: Rule XI reads as follows:

It shall always be in order to call up for consideration a report from the Committee on Rules (except it shall not be called up for consideration on the same day it is presented to the House, unless so determined by a vote of not less than two-thirds of the Members voting).

I submit, according to that rule and the reading of that rule, Mr. Speaker, that any member of the Rules Committee can call up the rule, but it would require the membership of the House to act upon it by a two-third vote in order to obtain consideration.

THE SPEAKER: The precedents are all to the effect that only a Member authorized by the Rules Committee can call up a rule, unless the rule has been on the calendar for 7 legislative days without action.

MR. FISH: Of course, there is nothing to that effect in the reading of the rule.

THE SPEAKER: The Chair is relying upon the precedents in such instances.

**§ 18.2 A member of the Committee on Rules announced his intention to call up for consideration, under Rule XI clause 24, a report from that committee which had been reported for more than seven legislative days but not scheduled for consideration.**

18. 86 CONG. REC. 7706, 76th Cong. 3d Sess.

On Sept. 22, 1966,<sup>(19)</sup> Mr. William M. Colmer, of Mississippi, propounded a parliamentary inquiry whether a resolution reported from the Committee on Rules and not called up within seven legislative days (H. Res. 1007, providing for consideration of the "House Un-American Activities bill") could be called up by any member of the committee. Speaker John W. McCormack, of Massachusetts, responded in the affirmative and Mr. Colmer stated that if the resolution was not "programed at a[n] . . . early date," he would "exercise that privilege as the one who is designated to handle this rule."

**§ 18.3 The ranking minority member of the Committee on Rules, pursuant to Rule XI clause 24, which authorizes any member of that committee to call up a rule reported seven days or more without being called up, called up a resolution providing for the consideration of a bill.**

On July 27, 1956,<sup>(20)</sup> Mr. Leo E. Allen, of Illinois, the ranking mi-

nority member of the Committee on Rules, called up a resolution providing for the consideration of a bill; the resolution had been reported to the House and had not been called up by the member making the report within seven legislative days. The Majority Leader commented on the procedure:

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Speaker, I want the House to understand what the situation is. Our Republican friends are trying to take over control of the House by this motion. I want my Democratic friends to understand just what this means. The gentleman from Illinois [Mr. Allen] under the rules called up the resolution, which he is entitled to do when a rule is reported out for 7 days and he is within his rights in doing so. But, I want the House to know just what has happened. It is the first time in all my years of service in the House of Representatives, no matter what party was in control of the House, that a motion of this kind has been made to call up a rule which has a preferential status under the rules of the House. The bill is on the program and it might have been reached.

Subsequently, the resolution was adopted and the Majority Leader moved that the House resolve itself into the Committee of the Whole for the consideration of the bill, which was agreed to.

19. 112 CONG. REC. 23691, 89th Cong. 2d Sess.

Rule XI clause 24 is now Rule XI clause 4(c), *House Rules and Manual* § 730 (1979).

20. 102 CONG. REC. 15195, 15196, 84th Cong. 2d Sess.

Rule XI clause 24 is now Rule XI clause 4(c), *House Rules and Manual* § 730 (1979).

**§ 18.4 A minority member of the Committee on Rules called up and obtained consideration of a resolution reported by that committee providing a special order of business.**

On July 14, 1949,<sup>(1)</sup> a resolution providing a special order of business, reported by the Committee on Rules, was called up for consideration as follows by a minority member of the committee:

MR. [JAMES W.] WADSWORTH [Jr., of New York]: Mr. Speaker, under rather unusual circumstances and in violation of some of the traditions of the House, as a minority Member I venture to call up House Resolution 278, and ask for its immediate consideration.

The Clerk read as follows: . . .

MR. WADSWORTH: Mr. Speaker, in further explanation of this unusual performance, of a member of the minority of the Committee on Rules calling up a rule, may I say I can see no member of the majority party of the Committee on Rules here present to take charge of the rule. I have, however, consulted with the gentleman from Tennessee who, I am informed on infallible authority, is the Democratic whip, and I have his consent to behave in this atrocious manner.

I understand under the rules 1 hour of debate is in order. On this side of the aisle no requests for time have been made to speak on the rule. I now inquire if there are any requests for time on the majority side?

1. 95 CONG. REC. 9511, 81st Cong. 1st Sess.

MR. [J. PERCY] PRIEST [of Tennessee]: Mr. Speaker, if the gentleman will yield, the chairman of the Committee on Rules, who had this rule under consideration, I believe understood that perhaps the bill would be passed over today. So if there is no request for time on the rule, if the gentleman from New York [Mr. Wadsworth] will move the previous question, since he has called the rule up, I believe that would be in order and we could proceed with the consideration of the bill.

MR. WADSWORTH: Mr. Speaker, it is with great cheerfulness that I move the previous question on the rule.

The previous question was ordered.

THE SPEAKER PRO TEMPORE:<sup>(2)</sup> The question is on the resolution.

The resolution was agreed to.

**§ 18.5 The Majority Leader called up by unanimous consent a resolution reported by the Committee on Rules providing a special order of business on behalf of that committee.**

On June 3, 1948,<sup>(3)</sup> Charles A. Halleck, of Indiana, the Majority Leader, asked unanimous consent to call up on behalf of the Committee on Rules House Resolution 621, providing for the consideration of a bill. The unanimous-consent request was agreed to.

2. Jere Cooper (Tenn.).

3. 94 CONG. REC. 7108, 80th Cong. 2d Sess.

***Consideration on Same Day  
Reported by Two-thirds Vote***

**§ 18.6 Objection to the consideration of a report from the Committee on Rules on the same day reported will not lie, since Rule XI clause 23 [Rule XI clause 4(b) in the 1979 House Rules and Manual] provides for such consideration upon an affirmative vote of two-thirds of the Members voting.**

On Dec. 23, 1963,<sup>(4)</sup> Mr. Howard W. Smith, of Virginia, called up a resolution, providing an order of business, which the Committee on Rules had reported the same day; Speaker John W. McCormack, of Massachusetts, held that objection to the consideration of the resolution was not in order:

MR. [Charles A.] HALLECK [of Indiana]: Mr. Speaker, in view of the fact that the rule has just been granted and there are no other copies available, I ask unanimous consent that the resolution be read.

THE SPEAKER: Without objection, the Clerk will report the resolution.

There was no objection.

The Clerk read the resolution.

THE SPEAKER: The question is, Will the House now consider the resolution?

MR. [PAUL] FINDLEY [of Illinois]: Mr. Speaker, I object. Section 22 of rule 11

provides that the rule shall lie on the Speaker's desk for 24 hours.

THE SPEAKER: The Chair will advise the gentleman that he passed upon this question the other day and a two-thirds vote would make the resolution in order.

The question is, Will the House now consider the resolution?

The Speaker referred to an occasion on Dec. 21, 1963 (legislative day of Dec. 20) where he had held similar objection not in order to the consideration of a Committee on Rules report.<sup>(5)</sup>

**§ 18.7 When a resolution reported from the Committee on Rules is called up the same day it is reported, a two-thirds vote is required to consider it, but merely a majority to adopt it.**

On Aug. 16, 1962,<sup>(6)</sup> Mr. B. F. Sisk, of California, reported from the Committee on Rules a resolution providing for the consideration of a bill; Speaker John W. McCormack, of Massachusetts, answered a parliamentary inquiry on the procedure should the resolution be called up immediately:

MR. [GERALD R.] FORD [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

5. Id. at p. 25249.

6. 108 CONG. REC. 16759, 87th Cong. 2d Sess.

4. 109 CONG. REC. 25495, 88th Cong. 1st Sess.

MR. FORD: Mr. Speaker, is my understanding correct that the gentleman from California is moving for the consideration of the rule, and if this is approved by a two-thirds vote, then we will consider the rule, which also has to be approved by a two-thirds vote. Also is the rule granted by the Committee on Rules in reference to H.R. 12333 a closed rule with a motion to recommit with instructions?

THE SPEAKER: The resolution has not been reported as yet, and the gentleman from California has not yet made a motion; but, assuming the gentleman from California offers a motion for the present consideration of the resolution, the question of consideration would be submitted to the membership without debate and a two-thirds vote would be necessary to consider the resolution. If the question of consideration was decided in the affirmative the resolution would then be considered under the regular rules of the House, providing 1 hour of debate, one-half of the time to be assigned to the member of the Rules Committee on the minority side in charge. At the termination of the hour, there would be a majority vote on the adoption of the rule.

Speaker Sam Rayburn, of Texas, answered a similar parliamentary inquiry on May 29, 1946:<sup>(7)</sup>

MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

7. 92 CONG. REC. 5924, 79th Cong. 2d Sess.

MR. MICHENER: Am I correct in stating that the procedure will be as follows: When the rule is called up, there will be a vote immediately on the question of the present consideration of the rule without any debate. If two-thirds of the Members vote for immediate consideration of the rule, then we are in exactly the same position as when a rule is reported to the House, that is, there will be 1 hour's debate, one-half to be controlled by the majority and one-half by the minority. Then those who are opposed to the Senate amendment may vote against that rule. A vote for consideration is not a vote for the rule. It requires two-thirds to get consideration today. It requires a majority only to pass the rule.

THE SPEAKER: The gentleman has correctly stated the parliamentary situation.

**§ 18.8 The requirement that two-thirds of the Members voting agree to consider a resolution from the Committee on Rules on the same day reported does not apply to resolutions called up during the last three days of a session.**

On Dec. 31, 1970,<sup>(8)</sup> a resolution from the Committee on Rules, providing for the consideration of a joint resolution containing continuing appropriations, was called up on the same day that it was reported. In response to a par-

8. 116 CONG. REC. 44292, 44293, 91st Cong. 2d Sess.



liamentary inquiry, Speaker John W. McCormack, of Massachusetts, stated that a two-thirds vote for the consideration of the resolution was not necessary under Rule XI clause 23 [now Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979)] since the resolution was called up during the last three days of the session.

**§ 18.9 Where a session of Congress is required by the 20th amendment to the Constitution to end at noon on Sunday, Jan. 3, that Sunday is considered a “dies non” and not counted in computing the final three days within which the Committee on Rules may call up a resolution on the same day reported under Rule XI clause 23.**

On Dec. 31, 1970 where the term of the 91st Congress was to end pursuant to the 20th amendment to the Constitution at noon on Sunday, Jan. 3, 1971),<sup>(9)</sup> Mr. William M. Colmer, of Mississippi, reported from the Committee on Rules a special order providing for the consideration of a bill, and then called up the resolution for consideration. Speaker John W. McCormack, of Massachusetts,

answered parliamentary inquiries relative to the provision in Rule XI clause 23 [Rule XI clause 4(b), § 729(a) in the 1979 *House Rules and Manual*] that a report from the Committee on Rules may be considered on the same day reported, without a two-thirds vote, during the last three days of a session:

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. YATES: Mr. Speaker, as I understand it, this is a rule that was reported by the Committee on Rules today.

In view of rule XI, section 22, will approval of this rule require a two-thirds vote, in view of the fact that the rule provides as follows:

It shall always be in order to call up for consideration a report from the Committee on Rules (except it shall not be called up for consideration on the same day it is presented to the House, unless so determined by a vote of not less than two-thirds of the Members voting, but this provision shall not apply during the last three days of the session).

The parliamentary inquiry I address to the Chair is: Are we within the last 3 days of the session or without them, and is this rule subject to approval by a majority vote or a two-thirds vote?

THE SPEAKER: The Chair is holding that we are within the last 3 days of the session and that consideration of this resolution is not subject to the two-thirds vote requirement.

MR. YATES: Rather than a two-thirds vote?

9. 116 CONG. REC. 44292, 44293, 91st Cong. 2d Sess.

THE SPEAKER: In answer to the gentleman's inquiry, a two-thirds vote is not required to consider the resolution during the last 3 days of a session of Congress.

MR. YATES: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. YATES: Will the Chair enlighten me by defining the 3-day period? Are they 3 legislative days or 3 calendar days?

THE SPEAKER: The Chair will state to the gentleman from Illinois in response to his parliamentary inquiry that there are only 3 days remaining; which would be Thursday, Friday, and Saturday.

MR. YATES: Well, it is not within the 3 days end under that definition, is it, Mr. Speaker?

THE SPEAKER: The Chair will state to the gentleman that Sundays are not counted within the purview of the rule. Former Speaker Longworth held that Sunday was "non dies" in a ruling in 1929—see also Cannon's Precedents, vol. VII, 944 and 995.

MR. YATES: Mr. Speaker, for the edification of the membership and as a further parliamentary inquiry, are holidays considered to be Sundays for the purpose of that rule at this point?

THE SPEAKER: The Chair does not have to pass upon the question of holidays. The Chair answered the gentleman's parliamentary inquiry which the gentleman very frankly presented and which the Chair answered to the effect that we are within the last 3 days of this session.

### **§ 18.10 Where the House refuses to consider a report**

**from the Committee on Rules on the day reported by failing to authorize such consideration by a two-thirds vote, the report remains on the House Calendar.**

On June 12, 1933,<sup>(10)</sup> the House refused to consider a report from the Committee on Rules on the same day reported, the question of consideration not obtaining a two-thirds vote. The resolution had been referred to the House Calendar and ordered printed when filed.

### ***Putting Question of Consideration on Same Day Reported***

**§ 18.11 Before a special order from the Committee on Rules may be acted upon on the day reported, the question of consideration must be decided in the affirmative by a two-thirds vote, and the Speaker first puts the question whether the House shall consider the resolution.**

On July 15, 1932,<sup>(11)</sup> Mr. John J. O'Connor, of New York, reported by direction of the Committee on Rules a special order (allowing Members to extend re-

10. 77 CONG. REC. 5814, 5815, 73d Cong. 1st Sess.

11. 75 CONG. REC. 15468, 15469, 72d Cong. 1st Sess.

marks until the end of the session) and then sought recognition to call up the resolution. Mr. Carl E. Mapes, of Michigan, made the point of order that calling up the resolution required unanimous consent, and Speaker John N. Garner, of Texas, referred to the rule [Rule XI clause 23 (Rule XI clause 4(b), § 729(a) in the 1979 *House Rules and Manual*)] allowing consideration by a two-thirds vote. Mr. O'Connor then sought recognition to move the previous question on the resolution. In response to a parliamentary inquiry, the Speaker discussed the proper procedure for considering a Committee on Rules report on the same day reported and determined that the question of consideration should be first put by the Speaker to the House:

MR. MAPES: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MAPES: It would seem to me the House should take action on the specific motion as to whether or not it will consider the resolution as reported by the Rules Committee before the resolution is called up for a vote. That motion might carry by two-thirds vote and then the House could act upon the resolution reported by the committee; but if the Speaker may place before the House immediately any resolution reported from the Committee on Rules without any notice, then the member-

ship of the House is not protected at all, because in that case any rule or resolution that is brought out by the Committee on Rules may be placed upon its immediate passage.

THE SPEAKER: If the gentleman is asking a parliamentary inquiry, the Chair will attempt to answer it; but if the gentleman intends to make an argument, the Chair will not recognize him for that purpose.

MR. MAPES: I made a point of order. If the Speaker has ruled, that is all there is to it.

THE SPEAKER: The Chair thinks he could recognize any member of the Committee on Rules to call up any resolution reported by that committee and if two-thirds of the Members voted for its consideration it would become the order of the House.

MR. MAPES: But, if the Speaker will permit, the rule expressly provides that during the last six days of the session the Speaker is authorized to recognize anyone to move to suspend the rules.

Now, it does not seem to me this rule is the same as that.

THE SPEAKER: The Chair will again read that provision of the rule, and the membership of the House can determine.

(Except it shall not be called up for consideration on the same day it is presented to the House, unless so determined by a vote of not less than two-thirds of the Members voting, but this provision shall not apply during the last three days of the session.)

MR. MAPES: I do not want to appear to be contentious about the matter, but let me make sure that I make my point clear. The rule provides that it shall

not be called up unless two-thirds of the House determine that it shall be. Now, my point is that the Speaker himself is determining that it shall be called up when he puts the question before the House and that the House ought to determine in advance whether it is to be called up or not.

THE SPEAKER: That seems to the Chair easily settled. The question is, Shall the House consider the resolution? That will satisfy the gentleman, I suppose.

MR. [WILLIAM H.] STAFFORD [of Wisconsin]: Mr. Speaker, I waive my right to the floor and yield it to the gentleman from New York.

MR. MAPES: Mr. Speaker, I want to make myself clear. I am not opposing this resolution at all, but I do think we ought not to establish a precedent which will allow the Speaker to put a resolution or a report from the Committee on Rules until the House itself decides that it should be put.

THE SPEAKER: The Chair is of the same opinion. The question is, Shall the House consider this resolution?

The question was taken; and on a division (demanded by Mr. Schafer) there were—ayes 201, noes 20.

So two-thirds having voted in favor thereof, the question was decided in the affirmative.

THE SPEAKER: The question is on agreeing to the resolution. The resolution was agreed to.

**§ 18.12 Where objection is made to a unanimous-consent request for the immediate consideration of a resolution on the day reported by the Committee on Rules, the**

**Speaker puts the question to the House to determine whether two-thirds favor such consideration.**

On May 19, 1949, Mr. John E. Lyle, Jr., of Texas, asked unanimous consent for the immediate consideration of a resolution from the Committee on Rules providing an order of business, where Mr. Lyle had reported the resolution to the House on the same day. Objection was made to the request, and Speaker Sam Rayburn, of Texas, put the question on the consideration of the resolution. Two-thirds voted in favor of consideration.<sup>(12)</sup>

**§ 18.13 The House may by unanimous consent (and without a two-thirds vote) consider a report from the Committee on the Rules on the same day reported.**

On Jan. 24, 1955,<sup>(13)</sup> the House agreed to a unanimous-consent request relating to the order of business:

MR. [HOWARD W.] SMITH of Virginia:  
Mr. Speaker, I ask unanimous consent

12. 95 CONG. REC. 6474, 6475, 81st Cong. 1st Sess.

See also 104 CONG. REC. 7630, 7631, 85th Cong. 2d Sess., Apr. 29, 1958.

13. 101 CONG. REC. 625, 84th Cong. 1st Sess.

that it may be in order on tomorrow to consider a report from the Committee on Rules as provided in clause 21, rule XI, except that the provision requiring a two-thirds vote to consider said reports is hereby waived.

THE SPEAKER:<sup>(14)</sup> Is there objection to the request of the gentleman from Virginia?

There was no objection.

On Sept. 23, 1940, the House, by unanimous consent, considered and adopted on the same day reported a special order from the Committee on Rules waiving points of order against legislative provisions in an appropriation bill.<sup>(15)</sup>

**§ 18.14 When a resolution from the Committee on Rules is called up the same day it is reported, no debate thereon is in order until the House agrees to consider the resolution by a two-thirds vote.**

On May 26, 1964,<sup>(16)</sup> Mr. Richard Bolling, of Missouri, reported from the Committee on Rules a privileged resolution waiving points of order against a bill and asked for its immediate consideration. Speaker John W. McCormack, of Massachusetts, imme-

diately put the question on whether the House would then consider the resolution and answered a parliamentary inquiry in relation to the procedure being followed:

MR. BOLLING: Mr. Speaker, I call up House Resolution 736 and ask for its immediate consideration.

THE SPEAKER: The Clerk will report the resolution. The Clerk read the resolution.

THE SPEAKER: The question is, Will the House now consider House Resolution 736?

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. GROSS: Does this require unanimous consent?

THE SPEAKER: It requires a two-thirds vote.

MR. GROSS: Mr. Speaker, is there any way to ascertain the reason for this request?

THE SPEAKER: If the House decides to consider it, then the debate will be under the 1-hour rule on the resolution.

MR. GROSS: Is there no way of ascertaining what is being done here, Mr. Speaker? Is there no time available?

THE SPEAKER: The Chair will state at this point that it is a matter of consideration. If consideration is granted, which requires a two-thirds vote, then the resolution will be considered under the 1-hour rule.

The question is, Will the House now consider House Resolution 736?

The question was taken.

14. Sam Rayburn (Tex.).

15. 86 CONG. REC. 12480, 76th Cong. 3d Sess.

16. 110 CONG. REC. 11951, 88th Cong. 2d Sess.

***Debate Under the Hour Rule*****§ 18.15 A Member calling up a privileged report from the Committee on Rules has one hour at his command and other Members may be recognized only if yielded time by him.**

On Oct. 9, 1968,<sup>(17)</sup> Mr. Ray J. Madden, of Indiana, called up, by direction of the Committee on Rules, House Resolution 1315 (providing for the consideration of S.J. Res. 175, suspending equal-time requirements of the Communications Act of 1934 for the 1968 Presidential and Vice Presidential campaigns). Mr. Madden was recognized for one hour and Speaker John W. McCormack, of Massachusetts, indicated that the hour was within his control, and that parliamentary inquiries could not be propounded without his so yielding:

THE SPEAKER: The gentleman from Indiana is recognized for 1 hour.

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: Does the gentleman from Indiana yield to the gentleman from Michigan?

MR. GERALD R. FORD: Mr. Speaker, a parliamentary inquiry.

MR. MADDEN: I do not yield.

THE SPEAKER: The Chair is asking the gentleman from Indiana if he

yields to the gentleman from Michigan for the purpose of making a parliamentary inquiry.

MR. MADDEN: No.

MR. GERALD R. FORD: Mr. Speaker, I demand the right to make a parliamentary inquiry.

MR. MADDEN: I yield.

MR. GERALD R. FORD: Mr. Speaker, I make a demand of personal privilege.

THE SPEAKER: Just a minute. The gentleman from Indiana has yielded to the gentleman from Michigan for the purpose of making a parliamentary inquiry.

*Parliamentarian's Note:* A Member calling up an order of business resolution by direction of the Committee on Rules customarily yields one-half of his hour of debate to the minority, to be controlled and yielded by them.

If the manager of the resolution yields for amendment, or if the previous question is voted down, the Member who is then recognized controls one hour of debate.

**§ 18.16 Debate in the House on a resolution reported from the Committee on Rules is under the hour rule, and that time may be extended only by unanimous consent.**

On June 21, 1972,<sup>(18)</sup> the House had under debate an order of business resolution from the Com-

17. 114 CONG. REC. 30217, 90th Cong. 2d Sess.

18. 118 CONG. REC. 21694, 92d Cong. 2d Sess.

mittee on Rules, which resolution had been called up by Mr. Thomas P. O'Neill, Jr., of Massachusetts. During the debate, Mr. O'Neill asked unanimous consent, because he had so many requests from Members to speak on the resolution, that time for debate be extended 30 minutes, divided between himself and Mr. H. Allen Smith, of California, of the Committee on Rules. The request was agreed to.

**§ 18.17 A Member recognized under the hour rule, following the rejection of the previous question on a resolution from the Committee on Rules, has control of that time and is under no compunction to yield half of the time to the other side as is the customary practice of the Committee on Rules.**

On Oct. 19, 1966,<sup>(19)</sup> the House had under debate a resolution from the Committee on Rules (H. Res. 1013, establishing a Select Committee on Standards and Conduct) which was called up by Mr. Claude D. Pepper, of Florida. The previous question was rejected by the House, and Speaker John W. McCormack, of Massachusetts,

answered a parliamentary inquiry on the control of debate:

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Speaker, I ask for time to debate this resolution further, since the previous question was not ordered.

MR. PEPPER: Mr. Speaker—

THE SPEAKER: For what purpose does the gentleman from Florida rise?

MR. PEPPER: To make a parliamentary inquiry, Mr. Speaker.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. PEPPER: My inquiry is, if the Speaker should recognize the able gentleman from Ohio as having control of the time, in view of the defeat of the motion to order the previous question, would the gentleman from Ohio have the authority or have the right to accord half of the time allotted to him to a representative of those who are the advocates of the resolution, as I did a while ago when I had control of the whole hour?

THE SPEAKER: If the Chair recognizes the gentleman from Ohio, it will be for a period of not exceeding 1 hour. The yielding of time then will rest within the discretion and judgment of the gentleman from Ohio. . . .

In order that the time start running, the Chair recognizes the gentleman from Ohio [Mr. Hays] for 1 hour.

MR. PEPPER: Mr. Speaker, will the gentleman yield?

MR. HAYS: I yield to the distinguished gentleman from Florida.

MR. PEPPER: Would the able gentleman from Ohio be willing to yield half of his time to a representative who advocates the resolution?

MR. HAYS: I will say to the gentleman from Florida, I will endeavor to

19. 112 CONG. REC. 27713—29, 89th Cong. 2d Sess.

yield the proponents of the resolution an equal amount of time, but I believe if I yielded half of my time, I might lose it all.

*Parliamentarian's Note:* Similarly, when the "21-day" rule for the discharge of the Committee on Rules of orders of business was in effect, the Member recognized to call up such a resolution under that rule had control of one hour and could yield to other Members in his discretion, but was not bound by the custom of the Committee on Rules to yield one-half of the time to the minority (or opposing side).<sup>(20)</sup>

**§ 18.18 Pending a motion to lay on the table a motion to reconsider the vote whereby a resolution providing an order of business had been agreed to without debate and without adoption of the previous question, the Speaker advised that the motion to reconsider (1) would be debatable if the pending motion to table was defeated, and (2) that in such event the Member moving reconsideration would be recognized to control the one hour of debate.**

20. See, for example, 111 CONG. REC. 23618, 23619, 89th Cong. 1st Sess., Sept. 13, 1965.

On Sept. 13, 1965,<sup>(1)</sup> the House adopted House Resolution 506, providing for the consideration of a bill; the resolution had been brought up under a motion to discharge (under the "21-day" rule) and had been voted on when the Member calling it up, Mr. Adam C. Powell, of New York, did not debate or move the previous question on the resolution.

Mr. William M. McCulloch, of Ohio, moved that the vote on the adoption of the resolution be reconsidered, and Mr. Carl Albert, of Oklahoma, moved to lay that motion on the table. Speaker John W. McCormack, of Massachusetts, answered a parliamentary inquiry on the time for debate on the motion to reconsider should the motion to table be rejected:

MR. [MELVIN R.] LAIRD [of Wisconsin]: Mr. Speaker, on the resolution just passed no one was allowed to debate that resolution on behalf of the minority or the majority. If this motion to table, offered by the gentleman from Oklahoma [Mr. Albert] is defeated, then there will be time to debate the resolution just passed.

The question of reconsideration is debatable, and it can be debated on the merits of the legislation which has not been debated by the House.

THE SPEAKER: What part of the gentleman's statement does he make as a parliamentary inquiry?

1. 111 CONG. REC. 23608, 89th Cong. 1st Sess.



MR. LAIRD: Mr. Speaker, if the motion to table is defeated, the motion to reconsider will give us an opportunity to debate the question on the resolution.

THE SPEAKER: Under the present circumstances, the motion to reconsider would be debatable.

MR. LAIRD: I thank the Speaker.

MR. MCCULLOCH: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. MCCULLOCH: Mr. Speaker, what time would be allowed to debate the question and how would it be divided?

THE SPEAKER: It will be under the 1-hour rule and the gentleman from Ohio would be entitled to the control of the entire hour.

### ***When Amendments Are in Order***

#### **§ 18.19 Special rules reported from the Committee on Rules are subject to amendment while the rule is pending if the Member in control yields for an amendment, offers one himself, or if the previous question is voted down.**

On Nov. 24, 1942, Mr. Edward E. Cox, of Georgia, called up a special order from the Committee on Rules and while it was pending offered an amendment thereto. Speaker Sam Rayburn, of Texas, answered a parliamentary inquiry on procedures for amending such a resolution:

MR. COX: I yield to the gentleman from Pennsylvania, of course.

MR. [ROBERT F.] RICH [of Pennsylvania]: I understood the gentleman to say he had to get unanimous consent to make this amendment to the rule in order that the bill might be passed. If this is the case I certainly shall object to it.

MR. COX: The gentleman, of course, has the privilege of voting against the amendment if he wishes.

MR. RICH: I shall vote against it.

MR. COX: Mr. Speaker, as I have stated the bill is worthless with section 8 eliminated.

MR. [JOHN E.] RANKIN of Mississippi: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RANKIN of Mississippi: Is the rule amendable before the previous question is voted down?

MR. COX: Yes; I take it that the rule can be amended.

MR. RANKIN of Mississippi: I should like to know just what the parliamentary situation is on this, Mr. Speaker.

THE SPEAKER: The Chair, of course, will entertain a motion to amend any special rule at any time while the rule is pending if the gentleman in control yields for it or if he offers it himself or if the previous question should be voted down.<sup>(2)</sup>

#### **§ 18.20 Where the House had ordered the previous question on an amendment in the nature of a substitute for a resolution and on the resolu-**

2. 88 CONG. REC. 9100, 77th Cong. 2d Sess.

**tion (reported from the Committee on Rules), the Speaker indicated that no further amendment to the resolution would be in order.**

On June 13, 1973,<sup>(3)</sup> the House rejected the previous question on House Resolution 437, reported from the Committee on Rules, providing for the consideration of H.R. 8410, a bill reported from the Committee on Ways and Means providing a temporary increase in the public-debt limit. The resolution as reported waived points of order against the bill and provided for the offering as an amendment of a designated bill already passed by the House (the designated bill contained appropriations).

Following the rejection of the previous question, Mr. John B. Anderson, of Illinois, who led the fight against the previous question, was recognized by Speaker Carl Albert, of Oklahoma, to offer an amendment in the nature of a substitute for the resolution, which amendment eliminated the waiver of points of order against the text of the designated bill. The previous question was ordered on the amendment and on the resolution, the amendment was agreed to, and the Speaker answered a parliamentary inquiry:

3. 119 CONG. REC. 19337-45, 93d Cong. 1st Sess.

THE SPEAKER: The question is on the resolution.

MR. [ROBERT L.] LEGGETT [of California]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. LEGGETT: We have now had one amendment to the rule. I am wondering at this point would another amendment for tax reform, as suggested by Mr. Reuss, be in order?

THE SPEAKER: The answer is "no," because the previous question has been ordered on the resolution.

### ***Committee Amendments***

**§ 18.21 Where a privileged resolution is reported by the Committee on Rules with committee amendments, the amendments may be reported and acted upon before the Member reporting the measure is recognized for debate thereon.**

On Aug. 19, 1964,<sup>(4)</sup> the House proceeded as follows on a resolution from the Committee on Rules with committee amendments:

THE SPEAKER:<sup>(5)</sup> The Clerk will report the resolution.

The Clerk read as follows:

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself

4. 110 CONG. REC. 20213, 88th Cong. 2d Sess.

5. John W. McCormack (Mass.).

into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11926) to limit jurisdiction of Federal courts in reapportionment cases. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

THE SPEAKER: The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Lines 1 and 2, page 1, strike the words "it shall be in order to move that," and line 2, page 1, after the word "House" insert "shall immediately".

THE SPEAKER: Without objection the committee amendments are agreed to.

There was no objection.

THE SPEAKER: The gentleman from Virginia [Mr. Smith] is recognized for 1 hour.

*Parliamentarian's Note:* Although special orders from the Committee on Rules with committee amendments are customarily handled in this fashion, the manager of the resolution could if he desired seek recognition under the hour rule before the committee amendments were offered

or before they were agreed to. The previous question can be moved only on the committee amendments or on the amendments and on the resolution.

**§ 18.22 The Committee on Rules reported out a resolution providing for consideration of a bill, with an amendment designating another bill on the same subject but which had not been reported by the committee to which it was referred.**

On Aug. 8, 1949,<sup>(6)</sup> Mr. Ray J. Madden, of Indiana, called up by direction of the Committee on Rules House resolution 183, providing for consideration of the bill H.R. 3190 (amending the Fair Labor Standards Act of 1938), with a committee amendment. The amendment struck out the number of the bill designated in the resolution, and substituted therefor the number of a different but related bill (also amending the Fair Labor Standards Act and pending before the Committee on Education and Labor, which had reported the bill H.R. 3190):

*Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on

6. 95 CONG. REC. 10988-97, 81st Cong. 1st Sess.

the State of the Union for consideration of the bill (H.R. 3190) to provide for the amendment of the Fair Labor Standards Act of 1938, and for other purposes, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and shall continue not to exceed 6 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the 5-minute rule. It shall be in order to consider without the intervention of any point of order the substitute committee amendment recommended by the Committee on Education and Labor now in the bill, and such substitute for the purpose of amendment shall be considered under the 5-minute rule as an original bill. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

With the following committee amendments:

Page 1, line 4, strike out "(H.R. 3190)" and insert "(H.R. 5856)."

Page 2, line 1, strike out the remainder of the line after the period and all of lines 2 through 6, inclusive.

The House agreed to the amendment and to the resolution as amended.

*Parliamentarian's Note:* House Resolution 183 had been introduced in order to obtain its consideration (and the consideration of H.R. 3190) under the "21-day rule" in effect in the 81st Congress. After the resolution had been introduced and referred to the Committee on Rules for 21 days without action, notice was given by the chairman of the Committee on Education and Labor that he would pursuant to the 21-day rule call up the resolution in the House should the Committee on Rules fail to report it. The Committee on Rules reported out the resolution, but with a germane amendment providing for the consideration of another bill on the same subject, which had been referred to the Committee on Education and Labor but not reported.

While an amendment, providing for the consideration of one bill, may not be germane to a resolution reported from the Committee on Rules providing for the consideration of another bill on an unrelated subject (see, e.g., Sept. 14, 1950, 96 CONG. REC. 14832-44, 81st Cong. 2d Sess), in this case the amendment provided for the consideration of a bill referred to the same committee and amending the same act with similar purposes.

***Amendments Offered by Manager*****§ 18.23 A Member calling up a special order from the Committee on Rules has control of the floor and time and may move an amendment to the resolution without direct authorization of the Committee on Rules.**

On May 24, 1934,<sup>(7)</sup> Speaker Henry T. Rainey, of Illinois, ruled that a Member recognized to call up a resolution from the Committee on Rules had the right to offer an amendment thereto without authorization by the committee:

MR. [EDWARD E.] COX [of Georgia]: Mr. Speaker, this is a resolution to make in order the Wilcox bill (H.R. 2837) to provide for the establishment of the Everglades National Park in the State of Florida, and for other purposes. The rule provides for 2 hours' general debate on the bill.

Since there is an hour on the rule, which will be largely devoted to a discussion of the merits of the bill, I offer a motion to amend the resolution by striking out the word "two", in line 2, and substituting in lieu thereof the word "one", which means reducing general debate from 2 hours to 1 hour.

THE SPEAKER: The gentleman from Georgia offers a committee amendment which the Clerk will report.

The Clerk read as follows: Committee amendment: Page 1, line 10,

strike out the word "two" and insert in lieu thereof the word "one"

MR. [FREDERICK R.] LEHLBACK [of New Jersey]: Mr. Speaker, a point of order. This is not a committee amendment.

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Speaker, the committee has never acted on the suggestion of the gentleman from Georgia [Mr. Cox].

MR. COX: Is the gentleman from Massachusetts not prepared to consent to this amendment?

MR. MARTIN OF MASSACHUSETTS: No.

MR. [THOMAS L.] BLANTON [of Texas]: Mr. Speaker, I make the point of order that the gentleman from Georgia [Mr. Cox] is in charge of the resolution and the time. He has the floor and he may offer any amendment he wants to offer.

THE SPEAKER: The point of order of the gentleman from Texas [Mr. Blanton] is sustained.

MR. MARTIN of Massachusetts: Mr. Speaker, I question the gentleman's authority to amend the rule without a meeting of the Rules Committee.

MR. COX: I am handling the rule for the committee, and I think it is my privilege to offer an amendment.

MR. MARTIN of Massachusetts: What would be the use of having meetings of the Rules Committee if any one Member could come in here and offer a committee amendment without consulting the other members of the committee?

MR. BLANTON: The gentleman from Georgia [Mr. Cox] represents the majority of the committee and has the floor. He can offer such amendments as he desires. Mr. Speaker, I ask for the regular order.

7. 78 CONG. REC. 9494, 9495, 73d Cong.

MR. MARTIN of Massachusetts: I ask for a ruling by the Chair.

THE SPEAKER: The gentleman from Georgia [Mr. Cox] is in charge of the matter and has a perfect right to offer an amendment.

*Parliamentarian's Note:* While the Member calling up the rule has the authority to offer or yield for an amendment, he normally does so only if authorized by the Committee on Rules (see §18.27, *infra*).

**§ 18.24 A resolution reported from the Committee on Rules was amended on the floor of the House to correct a drafting error.**

On June 28, 1965,<sup>(8)</sup> Mr. Claude D. Pepper, of Florida, called up, by direction of the Committee on Rules, a special order for the consideration of a bill. He offered an amendment to the resolution in order to correct an error therein made in drafting the resolution (changing the name of the committee which had reported the bill).

**§ 18.25 The Member calling up a special order from the Committee on Rules asked unanimous consent that the resolution be amended, and when the request was ob-**

**jected to offered an amendment to the resolution which was adopted.**

On Sept. 30, 1966,<sup>(9)</sup> Mr. B.F. Sisk, of California, called up, by direction of the Committee on Rules, House Resolution 1036, providing for the consideration of H.R. 17607, suspending the investment credit tax (reported from the Committee on Ways and Means). He asked unanimous consent that the resolution be amended to permit separate votes in the House on any amendments which might be adopted in the Committee of the Whole (the Committee on Ways and Means had determined, after the resolution had been reported from the Committee on Rules, to offer some major amendments to the bill, which amendments were not included in the reported version of the bill). When the unanimous-consent request of Mr. Sisk was objected to, he offered an amendment to the resolution, which amendment was agreed to by the House.

**§ 18.26 Where the Committee on Rules intended to recommend a waiver of points of order against unauthorized items in a general ap-**

8. 111 CONG. REC. 14861-66, 89th Cong. 1st Sess.

9. 112 CONG. REC. 24539, 24540, 89th Cong. 2d Sess.

**appropriation bill but not against legislative language therein, the Member calling up the resolution offered an amendment to reflect that intention.**

On July 21, 1970,<sup>(10)</sup> Mr. John A. Young, of Texas, who had called up by direction of the Committee on Rules a special order waiving points of order against an appropriation bill, made the following explanation in debate:

MR. YOUNG: . . . Mr. Speaker, House Resolution 1151 is a resolution waiving points of order against certain provisions of H.R. 18515, the Departments of Labor, Health, Education, and Welfare and related agencies appropriation bill for fiscal year 1971.  
. . .

Because the authorizations have not been enacted, points of order are waived against the bill for failure to comply with the first provision of clause 2, rule XXI. By mistake, the second provision was covered by the rule—so I have an amendment at the desk to correct the resolution. Now, Mr. Speaker, as stated there is a clerical error in the rule and at the proper time I shall send to the desk a committee amendment to correct the clerical error.

Mr. Speaker, I urge the adoption of the resolution.

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, will the gentleman yield?

MR. YOUNG: I yield to the gentleman from Iowa.

MR. GROSS: With regard to waiving points of order, the gentleman just said that he expects to offer an amendment to limit it to eight areas or provisions of the bill; is that correct?

MR. YOUNG: Yes. There were several provisions, as I have stated, relating to programs that are in progress currently but for which the authorizations expired at the end of the last fiscal year.

The chairman of the Committee on Appropriations and the ranking minority Member, together with others from the Committee on Appropriations appeared before the Rules Committee and asked that the points of order be waived with regard to these specific provisions.

Now, I would say to the distinguished gentleman from Iowa that the rule, through a clerical error, waived points of order against two other provisions which were not intended to be waived. That is why I previously stated that a committee amendment would be offered to correct that situation.

The committee amendment was offered and adopted:

MR. YOUNG: Mr. Speaker, I offer a committee amendment.

The Clerk read as follows:

Amendment offered by Mr. Young: Strike out lines 5 through 7 of the resolution and insert in lieu thereof the following: "purposes, all points of order against appropriations carried in the bill which are not yet authorized by law are hereby waived."

The amendment was agreed to.

MR. YOUNG: Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

10. 116 CONG. REC. 25240-42, 91st Cong. 2d Sess.

The resolution was agreed to.

A motion to reconsider was laid on the table.

### *Yielding for Amendment*

**§ 18.27 A member of the Committee on Rules, calling up a privileged resolution from that committee, has the option of yielding for an amendment, but he normally declines to do so on his own responsibility and yields only if he has authorization to do so from the Committee on Rules.**

On May 1, 1968,<sup>(11)</sup> Mr. Claude D. Pepper, of Florida, had called up by direction of the Committee on Rules a special order providing for the consideration of a bill (H.R. 16729, extending the higher education student loan program). He discussed and inquired of Speaker pro tempore Carl Albert, of Oklahoma, about his power to yield to another Member to offer an amendment to the resolution:

MR. PEPPER: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. PEPPER: Would it be permissible for a Member on the floor, without convening the Rules Committee, to offer an amendment to the rule? I believe

that perhaps I, as the Member handling the rule, have a right to yield to a Member, only to whom I wish to yield, to offer an amendment. Would it be permissible for me to yield to the gentleman from Kentucky to offer that amendment to the rule, so as to provide, on page 2, after the period, I would presume, in the second line, "and points of order shall be waived with respect to one amendment to be offered by the chairman of the Committee on Education and Labor"?

THE SPEAKER PRO TEMPORE: May the Chair inquire of the gentleman whether he has instructions from the Committee on Rules to offer such an amendment?

MR. PEPPER: I have no specific instructions for yielding for the offering of that amendment, from the Committee on Rules, except it was within the intendment, I understood, of the Committee on Rules that this amendment would be admissible. I do not propose to act by the authority of the Committee on Rules if I should yield for such an amendment.

THE SPEAKER PRO TEMPORE: The gentleman, of course, would be doing it on his own responsibility, then, and not subject to the order of the Committee on Rules.

The Chair will add, the only other way an amendment could be offered to the rule would be under the rules of the House. . . .

MR. PEPPER: Mr. Speaker, I have not offered any such amendment. I do not propose to yield for the purpose of offering such an amendment, since I do not have authority to do so from the Committee on Rules. I simply present the rule as it is written to the House for its consideration.

11. 114 CONG. REC. 11305, 11306, 90th Cong. 2d Sess.



**§ 18.28 In the House a Member having charge of a resolution providing a special order loses his right to resume when he yields to another to offer an amendment, and the sponsor of the amendment is recognized under the hour rule.**

On July 16, 1956,<sup>(12)</sup> Mr. William M. Colmer, of Mississippi, called up by direction of the Committee on Rules a resolution providing two days of general debate thereon. Mr. Colmer was recognized for one hour but yielded to Mr. Howard W. Smith, of Virginia, at the latter's request, for the purpose of offering an amendment to the resolution to change the two days to eight hours. In response to parliamentary inquiries, Speaker Sam Rayburn, of Texas, stated that in yielding for an amendment to the resolution Mr. Colmer had lost control and the right to resume debate on the resolution and that Mr. Smith was recognized for one hour, with the right to yield to other Members.

**§ 18.29 A special rule reported by the Committee on Rules is subject to germane amendment if the manager yields for an amendment before**

12. 102 CONG. REC. 12917, 12922, 12923, 84th Cong. 2d Sess.

**moving the previous question.**

On Apr. 15, 1936,<sup>(13)</sup> Mr. Edward E. Cox, of Georgia, called up by direction of the Committee on Rules a resolution providing for the consideration of a bill; before moving the previous question, he yielded to Mr. John J. O'Connor, of New York, to offer an amendment to the resolution, and then moved the previous question on the resolution and amendment (after debate on the amendment by Mr. O'Connor). In response to a parliamentary inquiry, Speaker Joseph W. Byrns, of Tennessee, indicated that it was within the power of the gentleman handling the resolution to yield for an amendment before moving the previous question and that in the absence of the previous question any Member could offer a germane amendment.

### ***Nongermane Amendments***

**§ 18.30 A special rule providing for the consideration of one bill may generally not be amended by substituting another bill, except by unanimous consent.**

On June 17, 1935,<sup>(14)</sup> the manager of a resolution from the Com-

13. 80 CONG. REC. 5535, 5536, 74th Cong. 2d Sess.

14. 79 CONG. REC. 9454, 74th Cong. 1st Sess.

mittee on Rules providing for the consideration of a bill obtained unanimous consent to amend the resolution to provide for the consideration of another bill (where both bills amended the Agricultural Adjustment Act):

MR. [JOHN J.] O'CONNOR [of New York]: Mr. Speaker, I ask unanimous consent to amend the rule as follows: On page 1, line 4, strike out the figures "8052" and insert in lieu thereof the figures "8492."

The Clerk read the amendment as follows:

Amendment offered by Mr. O'Connor: Page 1, line 4, strike out the figures "8052" and insert in lieu thereof the figures "8492."

THE SPEAKER:<sup>(15)</sup> Is there objection to the request of the gentleman from New York?

MR. [FREDERICK R.] LEHLBACH [of New York]: Mr. Speaker, reserving the right to object, and I do not contemplate objecting under certain circumstances to the unanimous-consent request, but the point occurs to me that the amendment is clearly out of order.

MR. O'CONNOR: That is why I am asking unanimous consent to make the change. I admit it is not in order to offer the amendment.

MR. LEHLBACH: It is to protect the procedure of the House that I make this statement. The rules provide that by motion from the floor one bill may not be substituted for another bill upon the same subject.

MR. O'CONNOR: I agree with the gentleman.<sup>(16)</sup>

*Parliamentarian's Note:* The rule of germaneness (Rule XVI clause 7) applies only to amendments and not to original text. Thus the Committee on Rules may report a resolution making in order, to a designated bill, a non-germane amendment, such as another bill on a different subject.

**§ 18.31 A resolution providing for the consideration of a bill relating to a certain subject may not be amended by a proposition providing for consideration of another and nongermane subject or matter; thus to a resolution providing that the House disagree to a Senate amendment directing the Committee on Ways and Means of the House and the Finance Committee of the Senate to conduct a study of excess-**

§2956 (to a resolution providing for the consideration of one bill, an amendment providing for the consideration of another bill is not germane). But see §18.22, *supra*, for an instance where the Committee on Rules reported and the House adopted a committee amendment providing for the consideration of a different bill than that denominated in the original resolution. In that case the separate bill was on the same subject as the bill originally made in order by the rule, and presumably germane thereto.

15. Joseph W. Byrns (Tenn.).

16. See also 5 Hinds' Precedents §§5834-36; 8 Cannon's Precedents

**profits tax legislation, an amendment providing that the House concur in such amendment with an amendment enacting excise-tax legislation was held to be not germane.**

On Sept. 14, 1950,<sup>(17)</sup> Mr. Adolph J. Sabath, of Illinois, called up House Resolution 842, from the Committee on Rules, providing for taking a House bill with Senate amendments from the table, disagreeing to the Senate amendments, and agreeing to a conference. The previous question was voted down on the resolution, and Mr. Herman P. Eberharter, of Pennsylvania, offered an amendment to the resolution to provide that on all Senate amendments except one, the amendments be disagreed to and a conference be agreed to; on the remaining Senate amendment (which directed committees to study excess-profits legislation), Mr. Eberharter's amendment proposed to concur in the Senate amendment with an amendment enacting excise-tax legislation. Mr. Wilbur D. Mills, of Arkansas, made a point of order against the amendment on the ground that it was not germane, since the Senate amendment proposed a study of legislation and

the amendment proposed enacted legislation. Speaker Sam Rayburn, of Texas, ruled as follows after hearing argument by Mr. Eberharter:

MR. EBERHARTER: In the first place, Mr. Speaker, this amendment seeks to amend the resolution reported out by the Committee on Rules. This resolution waives points of order with respect to other rules of the House. Under the rules of the House when a bill comes from the other body with amendments containing matter which would have been subject to a point of order in the House then the amendment must be considered in the Committee of the Whole. The resolution reported out by the Committee on Rules seeks to waive that rule.

If a resolution reported out by the Committee on Rules can waive one rule of the House, why cannot the House by the adoption of a substitute resolution, which this is, waive other rules? I contend, Mr. Speaker, that this substitute for the resolution reported out by the Committee on Rules is just as germane and just as much in order as the actual resolution reported out by the Committee on Rules; they are similar. . . .

THE SPEAKER: The Chair is ready to rule.

The Chair agrees with a great deal that the gentleman from Pennsylvania and the gentleman from Colorado say about history, but that is not the question before the Chair to decide at this time.

It is a rule long established that a resolution from the Committee on Rules providing for the consideration of

17. 96 CONG. REC. 14832-44, 81st Cong. 2d Sess.

a bill relating to a certain subject may not be amended by a proposition providing for the consideration of another and not germane subject or matter.

It is true that in Senate amendment No. 191 to the bill, which came from the Senate, there is a caption "Title VII," which states "Excess Profits Tax." But in the amendment which the Senate adopted to the House bill there is no excess-profit tax.

The Chair is compelled to hold under a long line of rulings that this matter, not being germane if offered to the Senate amendment it is not germane here. The Chair sustains the point of order.

### ***Rejection of Previous Question***

#### **§ 18.32 A resolution providing a special order of business is open to germane amendment if the previous question is voted down.**

On Sept. 15, 1961,<sup>(18)</sup> the yeas and nays had been ordered on the ordering of the previous question on a special order from the Committee on Rules (H. Res. 464, providing for consideration of H.R. 7927, to adjust postal rates and for other purposes). Speaker pro tempore John W. McCormack, of Massachusetts, answered a parliamentary inquiry on the effect of rejecting the previous question:

MR. [WILLIAM H.] AVERY [of Kansas]: If the motion for the previous question

should be voted down at the appropriate stage of the proceedings, then it would be in order, would it not, to offer an amendment to the resolution before the House?

THE SPEAKER: The gentleman is correct. The resolution would be open to amendment. . . .

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, will the gentleman yield for the purpose of offering an amendment to make this an open rule?

MR. [B. F.] SISK [of California]: I do not yield for that purpose.

Mr. Speaker, I move the previous question.

MR. COLMER: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

MR. [EDWARD J.] DERWINSKI [of Illinois]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. DERWINSKI: Mr. Speaker, since we are voting on ordering the previous question, a "no" vote in effect opens up the rule?

THE SPEAKER PRO TEMPORE: If ordering the previous question is voted down, then the resolution is open for amendment or further debate.

The House then rejected the previous question, and adopted an amendment to the resolution providing that the bill be read for amendment under the five-minute rule and generally opening the bill up for amendment (the original resolution had allowed only committee amendments).<sup>(19)</sup>

18. 107 CONG. REC. 19750-59, 87th Cong. 1st Sess.

19. For some of the other occasions where the previous question has

On Oct. 8, 1968, Speaker pro tempore Wilbur D. Mills, of Arkansas, stated in response to a parliamentary inquiry that germane amendments could be offered to such a resolution if the previous question were voted down:

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. GERALD R. FORD: If and when we get to the rule to which the gentleman from Indiana refers, would it be permissible to amend the rule to provide for the consideration of the clean elections bill, so that we can get that legislation on the floor?

THE SPEAKER PRO TEMPORE: If such an amendment were germane to the matter, it could be considered.

MR. GERALD R. FORD: A further parliamentary inquiry, Mr. Speaker.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. GERALD R. FORD: If the previous question is defeated and the rule is opened up, could an amendment be made to the rule to provide in the rule for the consideration of the clean elections bill?

THE SPEAKER PRO TEMPORE: If that amendment were germane to the reso-

been voted down and special orders amended, see 116 CONG. REC. 37834-42, 91st Cong. 2d Sess., Nov. 18, 1970; 105 CONG. REC. 16404-06, 86th Cong. 1st Sess., Aug. 19, 1959; 90 CONG. REC. 5465-73, 78th Cong. 2d Sess., June 7, 1944; and 86 CONG. REC. 5035-46, 76th Cong. 3d Sess., Apr. 23, 1940.

lution it would be in order to consider it, yes.<sup>(20)</sup>

**§ 18.33 In response to parliamentary inquiries, the Speaker advised that if the previous question on a privileged resolution reported by the Committee on Rules were voted down, (1) the resolution would be open to further consideration, amendment, and debate; (2) a motion to table would be in order and would be preferential; and (3) the Chair would recognize, under the hour rule, the Member who appeared to be leading the opposition.**

On Oct. 19, 1966,<sup>(1)</sup> the House had under consideration a privileged resolution from the Committee on Rules establishing a Se-

20. 114 CONG. REC. 30092, 90th Cong. 2d Sess.

1. 112 CONG. REC. 27713, 27714, 27725, 89th Cong. 2d Sess.

For occasions where privileged resolutions reported from the Committee on Rules were laid on the table following rejection of the previous question, see 87 CONG. REC. 2182-89, 77th Cong. 1st Sess., Mar. 11, 1941; 83 CONG. REC. 9490-99, 75th Cong. 3d Sess., June 15, 1938; 81 CONG. REC. 3291-3301, 75th Cong. 1st Sess., Apr. 8, 1937; and 81 CONG. REC. 3283-90, 75th Cong. 1st Sess., Apr. 8, 1937.

lect Committee on Standards and Conduct. Speaker John W. McCormack, of Massachusetts, answered inquiries on the procedure should the previous question be voted down on the resolution:

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. HAYS: Mr. Speaker, if the previous question is refused, is it true that then amendments may be offered and further debate may be had on the resolution?

THE SPEAKER: If the previous question is defeated, then the resolution is open to further consideration and action and debate.

MR. [JOE D.] WAGGONER [Jr., of Louisiana]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. WAGGONER: Mr. Speaker, under the rules of the House, is it not equally so that a motion to table would then be in order?

THE SPEAKER: At that particular point, that would be a preferential motion. . . .

MR. [JAMES G.] FULTON of Pennsylvania: Mr. Speaker, if the previous question is refused and the resolution is then open for amendment, under what parliamentary procedure will the debate continue? Or what would be the time limit?

THE SPEAKER: The Chair would recognize whoever appeared to be the leading Member in opposition to the resolution.

MR. FULTON of Pennsylvania: What would be the time for debate?

THE SPEAKER: Under those circumstances the Member recognized in opposition would have 1 hour at his disposal, or such portion of it as he might desire to exercise.

MR. [CORNELIUS E.] GALLAGHER [of New Jersey]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. GALLAGHER: If the previous question is voted down we will have the option to reopen debate, the resolution will be open for amendment, or it can be tabled. Is that the situation as the Chair understands it?

THE SPEAKER: If the previous question is voted down on the resolution, the time will be in control of some Member in opposition to it, and it would be open to amendment or to a motion to table.

**§ 18.34 A Member recognized to offer an amendment to a special order from the Committee on Rules following rejection of the previous question thereon controls one hour of debate in the House on the amendment.**

On May 10, 1973,<sup>(2)</sup> the House rejected the previous question on House Resolution 389, reported from the Committee on Rules, waiving points of order during the consideration of a supplemental appropriations bill. Mrs. Patsy T. Mink, of Hawaii, who had opposed

2. 119 CONG. REC. 15273-81, 93d Cong. 1st Sess.

the ordering of the previous question in order to offer an amendment (to make in order, without points of order, a designated amendment to the bill) was recognized to offer an amendment. In response to her parliamentary inquiry, Speaker Carl Albert, of Oklahoma, stated that she would control one hour of debate on her amendment.

**§ 18.35 The chairman of the legislative committee reporting a bill to the House led the fight against the type of resolution reported from the Committee on Rules providing for its consideration and led the fight against the ordering of the previous question on the resolution; when the previous question was voted down, he was recognized to offer an amendment to the resolution.**

On June 16, 1970,<sup>(3)</sup> Mr. William M. (Colmer, of Mississippi, called up, by direction of the Committee on Rules, House Resolution 1077, providing for the consideration of H.R. 17070, the Postal Reform Act of 1970, reported from the Committee on Post Office and Civil Service. The resolution provided that the committee amend-

ment in the nature of a substitute printed in the bill be read as an original bill for amendment, but also provided that another bill be in order, without the intervention of points of order, as a substitute for the committee amendment. Thaddeus J. Dulski, of New York, Chairman of the Committee on Post Office and Civil Service, opposed the resolution as reported:

MR. DULSKI: Mr. Speaker, as I told the Committee on Rules when I requested a rule on H.R. 17070, I support the bill as it came from our committee. I asked that the bill, as reported, be considered as original text for the purpose of amendment

The rule now pending goes beyond my request and makes another bill in order which could thwart the bill of my committee. For that reason, I oppose the extension of the rule to the second bill.

I believe we should revert to my original request for an open rule with 4 hours of general debate and waiving points of order.

Accordingly, I urge that the previous question be voted down so that the rule can be amended.

If the previous question is voted down, I shall offer the appropriate amendment to make consideration of our committee amendment to H.R. 17070 in order.

I am supported in this proposal by at least 15 other Members of the Post Office and Civil Service Committee, on both sides of the aisle, who have joined me in an open letter to the entire membership of the House.

3. 116 CONG. REC. 19837-44, 91st Cong. 2d Sess.

When the previous question was voted down on the resolution, Speaker pro tempore Carl Albert, of Oklahoma, recognized Mr. Dulski to offer an amendment to the resolution, which amendment struck out the provision allowing the designated bill to be offered as a substitute to the committee amendment and waiving points of order against the designated bill. The House agreed to the amendment and to the resolution as amended.

**§ 18.36 Instances where the previous question has been voted down on special orders reported by the Committee on Rules and such special orders amended.**

On June 7, 1944, the House voted down the previous question on a resolution reported from the Committee on Rules, providing for the consideration of a bill, and amended the resolution by striking out a provision therein which would have made in order sections or paragraphs of another bill as amendments to the bill for which the resolution provided consideration.<sup>(4)</sup>

On Aug. 19, 1959, a resolution from the Committee on Rules making in order the consideration

4. 90 CONG. REC. 5465-73, 78th Cong. 2d Sess.

of a bill was amended to waive points of order against the bill.<sup>(5)</sup>

On Sept. 15, 1961, the House defeated a motion for the previous question on a resolution providing for the consideration of a bill and permitting only amendments offered by direction of the Committee on Post Office and Civil Service and adopted an amendment to the resolution providing that the bill be read for amendment under the five-minute rule, and opening the bill generally for amendment.<sup>(6)</sup>

On June 16, 1970, the Chairman of the Committee on Post Office and Civil Service, Thaddeus J. Dulski, of New York, led the fight against the previous question on a resolution from the Committee on Rules providing for the consideration of a bill reported from his committee. The previous question having been voted down, Mr. Dulski offered an amendment to the resolution (striking out the provision therein making a specific bill in order as a substitute for the committee amendment in the nature of a substitute) and the House adopted the amendment.<sup>(7)</sup>

5. 105 CONG. REC. 16404-06, 86th Cong. 1st Sess.

6. 107 CONG. REC. 19750-59, 87th Cong. 1st Sess.

7. 116 CONG. REC. 19837-44, 91st Cong. 2d Sess.



On another occasion (Nov. 18, 1970) the House defeated the previous question on a resolution providing a “closed” rule for H.R. 18970 (to amend the U.S. tariff and trade laws, reported from the Committee on Ways and Means) and considered an amendment to the resolution, offered by Mr. Sam M. Gibbons, of Florida, to permit reading the bill by titles and permitting motions to strike matter in the bill. After the previous question had been ordered on the amendment and the resolution, the House rejected the amendment and finally agreed to the resolution as reported from the Committee on Rules.<sup>(8)</sup>

On May 10, 1973, the previous question was rejected on House Resolution 389, a special order reported from the Committee on Rules waiving points of order (under Rule XXI clauses 2 and 5) during the consideration of H.R. 7447, a general appropriation bill containing supplemental appropriations for fiscal 1973. Mrs. Patsy T. Mink, of Hawaii, opposed the ordering of the previous question in order to offer an amendment to the resolution, and the previous question was rejected. Mrs. Mink offered an amendment to the resolution to specifically make in order an amendment to

the bill which constituted legislation on an appropriation bill (and waiving all points of order against the specified amendment). The House adopted the amendment to the resolution.<sup>(9)</sup>

On June 13, 1973, there was pending before the House House Resolution 437, reported from the Committee on Rules, providing for the consideration of H.R. 8410, for a temporary increase in the public debt limitation (this was the first occasion in many years where the Committee on Rules had reported an “open” rule, permitting floor amendments, to a public-debt limit bill). The resolution as reported contained a provision making in order, without the intervention of any point of order, an amendment consisting of a designated bill, already passed by the House, which was not germane to H.R. 8410. The House rejected the previous question and adopted an amendment, offered by Mr. John B. Anderson, of Illinois, which was an amendment in the nature of a substitute for the resolution and which eliminated the waiver of points of order against the text of the designated bill if offered as an amendment to the bill.<sup>(10)</sup>

### *Postponing Consideration*

#### **§ 18.37 Under Rule XI clause 23, the calling up of a resolu-**

9. 119 CONG. REC. 15273–81, 93d Cong. 1st Sess.

10. *Id.* at pp. 19337–45.

8. *Id.* at pp. 37834–42.

**tion reported from the Committee on Rules is a matter of high privilege, and when consideration has begun and the resolution is under debate, the House can postpone further consideration and proceed to other business only by unanimous consent.**

On Oct. 29, 1969, Mr. John A. Young, of Texas, called up, by direction of the Committee on Rules, a special order providing for the consideration of a bill. After consideration had begun and the resolution was under debate, Mr. Young asked unanimous consent "that further consideration of this resolution be postponed until tomorrow." The House agreed to the request.<sup>(11)</sup>

*Parliamentarian's Note:* A privileged resolution called up in the House may be withdrawn from consideration before action thereon, and if the resolution is later reoffered, debate under the hour rule begins anew. But if the House desires to use part of the hour's debate on one day and resume consideration on the next, it may by unanimous consent postpone further consideration or, if

there is no further business or special orders to follow, it may simply adjourn so that the resolution would become unfinished business on the following day.

### ***Recommitting Resolution***

**§ 18.38 A motion to recommit a special rule to the Committee on Rules after the previous question is ordered thereon is not in order.**

On Feb. 2, 1955,<sup>(12)</sup> the previous question was ordered on a resolution from the Committee on Rules (authorizing an investigation). Mrs. Edith Nourse Rogers, of Massachusetts, sought to offer a motion to recommit the resolution, but Speaker Sam Rayburn, of Texas, ruled that "Under the rules, a motion to recommit a resolution from the Committee on Rules is not in order."

On July 23, 1942,<sup>(13)</sup> there was pending before the House a resolution, on which the previous question had been ordered, reported from the Committee on Rules providing for the consideration of a bill. Speaker Sam Rayburn, of Texas, ruled that a mo-

11. 115 CONG. REC. 32076-83, 91st Cong. 1st Sess.

Rule XI clause 23 is now Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979).

12. 101 CONG. REC. 1076-79, 84th Cong. 1st Sess.

13. 88 CONG. REC. 6544, 77th Cong. 2d Sess.

tion to recommit the resolution was not in order:

MR. [JOHN E.] RANKIN of Mississippi: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER: The Chair will allow the motion to be read for the Record. Of course, a motion to recommit to the Committee on Rules is not in order.

MR. RANKIN of Mississippi: I would like to be heard on that.

THE SPEAKER: The Chair has already ruled. For the Record the Clerk will report the motion.

The Clerk read as follows:

Mr. Rankin of Mississippi moves to recommit the rule to the Committee on Rules.

THE SPEAKER: The Chair holds that the motion is not in order.

The question is on agreeing to the resolution.

*Parliamentarian's Note:* A resolution from the Committee on Rules may be recommitted by unanimous consent.<sup>(14)</sup>

### ***Relevancy in Debate***

**§ 18.39 Debate on a special rule which only provides special procedures during the consideration of a bill (which is privileged for consideration under the general rules of the House) is limited to the merits of such procedures.**

14. See 97 CONG. REC. 11394-98, 82d Cong. 1st Sess., Sept. 14, 1951.

On June 20, 1935,<sup>(15)</sup> the House had under discussion House Resolution 226, waiving points of order against a general appropriation bill and providing not to exceed two hours of general debate on the bill in Committee of the Whole. In response to repeated points of order, Speaker Joseph W. Byrns, of Tennessee, ruled on relevancy in debate on a special order:

MR. [THOMAS L.] BLANTON [of Texas]: Mr. Speaker, I make the point of order that where the rule under consideration changes the general rules of debate on an appropriation bill, anything that is pertinent to any part of that rule is legitimate in debate in consideration of the rule.

THE SPEAKER: The Chair thinks the gentleman from Texas is correct, but the gentleman must confine himself to the resolution before the House and not discuss extraneous matters.

MR. [JOHN J.] O'CONNOR [of New York]: Mr. Speaker, in this connection, not only the resolution but the bill referred to in the resolution can be discussed, I maintain.

MR. [BERTRAND H.] SNELL [of New York]: The Speaker has ruled on the question.

MR. [EARL C.] MICHENER [of Michigan]: In that connection I may say that while sometimes we permit such discussion, it is subject to a point of order.

MR. O'CONNOR: Mr. Speaker, I maintain that when a rule is brought in for

15. 79 CONG. REC. 9783, 9784, 74th Cong. 1st Sess.

the consideration of a bill that in discussing the rule it is permissible also to discuss the subject matter of the bill referred to in the rule.

THE SPEAKER: The Chair thinks that the question now under debate is whether there shall or shall not be general debate on the bill. While this debate may involve certain features or provisions of the bill, the Chair does not think it would justify a Member discussing extraneous matter. Discussion on the resolution now before the House applies only to the question of whether there shall be general debate on the bill. This would not authorize a Member to discuss matters which are not germane to the resolution. . . .

MR. BLANTON: Mr. Speaker, I make the point of order that when debating a rule that would do away with general debate, which but for the rule would be in order, and general debate means discussion of every subject on the face of the globe, all reasons for eliminating general debate are pertinent and in order, and takes in a subject as broad as the universe, and the gentleman certainly can discuss all such reasons.

THE SPEAKER: The Chair thinks that any discussion which undertakes to justify or otherwise the question as to whether or not general debate shall be confined to the bill is legitimate, and the Chair so rules, and hopes that the gentleman from Ohio will proceed in order, as the Chair believes he will.

MR. [BYRON B.] HARLAN [of Ohio]: Mr. Speaker, following the statement of the gentleman from Massachusetts to the effect that the United States had gone in retrograde nine points in the last 2 years, I asked the gentleman

his authority for the statement. He said he saw it in the newspapers some place.

MR. SNELL: Mr. Speaker, I make the point of order that the gentleman from Ohio is not following the decision of the Chair, and I respectfully submit the question to the Chair.

MR. HARLAN: Mr. Speaker, I am tracing this propaganda down to its source to show that the time of general debate in this particular instance was used for no other purpose than to start rumors, propaganda, and shake confidence.

THE SPEAKER: The Chair does not think that propaganda has anything to do with the discussion of the rules under consideration. The Chair may say to the gentleman from Ohio that he should confine himself—and the Chair hopes he will—to a discussion of whether or not it is proper for the House to confine general debate to the bill or whether general debate should be opened to a discussion of all subjects.

*Parliamentarian's Note:* Although the resolution made in order a motion to resolve into Committee of the Whole for consideration of the bill, general appropriation bills were and are privileged for consideration, and that portion of the resolution was technically unnecessary. Where a special rule provides for the consideration of a measure which is not otherwise privileged, a broader test of relevancy in debate on the resolution is applied.

#### **§ 18.40 In discussing a special rule, the terms of which re-**

**strict general debate on a bill to a specified time, it is in order to show by way of illustration the futility of general debate but such discussion may not be broadened to include a reply to a speech made at some other time in general debate.**

On June 20, 1935,<sup>(16)</sup> relevancy in debate on a special order was the subject of several points of order and rulings by Speaker Joseph W. Byrns, of Tennessee. The Speaker made the following statement:

THE SPEAKER: The gentleman from Ohio [Mr. Harlan] will please suspend while the Chair makes this statement: It has always been the custom heretofore in discussing resolutions making in order matters of legislation for Members to be rather liberal in their discussions and not necessarily to confine themselves to the pending resolution.

The Chair thinks that discussion on these rules should not be too narrowly restricted. Of course, under the precedents, a Member must confine himself to the subject of debate when objection is raised. The pending resolution is one which undertakes to limit general debate upon the deficiency bill to 2 hours and to confine the debate to the bill itself. The Chair thinks it is entirely too narrow a construction to undertake to hold a Member, in discussing the

resolution either pro or con, to the simple question of whether or not the rule should be adopted, and that it is entirely legitimate discussion for a Member who is undertaking to uphold the rule and to justify confining debate to the bill to cite as illustrations what has occurred in previous discussions. The Chair does not think a Member, in using such illustrations, is justified in answering a speech that has been made upon a previous occasion. However, the Chair repeats that the Chair does think it is perfectly legitimate for a Member who is undertaking to justify the rule to refer to experiences on previous occasions where the debate was not limited to the bill, and the Chair hopes that the gentleman from Ohio will proceed in order.

### ***Withdrawing Resolution***

**§ 18.41 A Member calling up a privileged resolution reported from the Committee on Rules withdrew the resolution after debate thereon and later, after intervening business, called up the resolution again.**

On Apr. 8, 1964,<sup>(17)</sup> there was being debated in the House a special order from the Committee on Rules called up by Mr. Richard Bolling, of Missouri. During debate thereon, a recess was declared to await the engrossed copy of a bill and at the conclusion of

16. 79 CONG. REC. 9783, 9784, 74th Cong. 1st Sess.

17. 110 CONG. REC. 7303, 7304, 7308, 88th Cong. 2d Sess.

the recess Speaker John W. McCormack, of Massachusetts, announced the unfinished business to be the reading of the engrossed bill. When objection was made that the unfinished business was the special order pending at the time of the recess, Mr. Bolling withdrew the resolution from consideration.<sup>(18)</sup>

**§ 18.42 A Member calling up a privileged resolution from the Committee on Rules is recognized for a full hour notwithstanding the fact that he had previously called up the resolution and, after debate, had withdrawn it.**

On Apr. 8, 1964,<sup>(19)</sup> Mr. Richard Bolling, of Missouri, called up by direction of the Committee on Rules a resolution providing for the consideration of a bill. During debate on the resolution, Speaker John W. McCormack, of Massachusetts, declared a recess for the purpose of awaiting the engrossed copy of a bill already passed. At the conclusion of the recess the Speaker stated the unfinished business to be the reading of the

engrossed copy of the bill and Mr. Oliver P. Bolton, of Ohio, inquired whether the unfinished business was not the special order previously called up by Mr. Bolling. Thereupon, Mr. Bolling withdrew such resolution. In response to a parliamentary inquiry, the Speaker stated that when the special order was again called up by Mr. Bolling, he would again be recognized for one hour.

***Division of the Question***

**§ 18.43 A report from the Committee on Rules waiving the requirements of a two-thirds vote for consideration on the same day reported from that committee, making in order motions to suspend the rules during the remainder of the session, and making privileged a motion for a recess, was held to provide a special order of business and therefore not to be divisible for a separate vote.**

On June 1, 1934,<sup>(20)</sup> Speaker Henry T. Rainey, of Illinois, ruled as follows on the divisibility, under Rule XVI clause 6, of a resolution reported from the Committee on Rules:

**18.** For another occasion where a special order was withdrawn after being called up, see 110 CONG. REC. 2001, 2002, 88th Cong. 2d Sess., Feb. 5, 1964.

**19.** 110 CONG. REC. 7303, 7304, 7308, 88th Cong. 2d Sess.

**20.** 78 CONG. REC. 10239-41, 73d Cong. 2d Sess.

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*Resolved*, That during the remainder of the second session of the Seventy-third Congress it shall be in order for the Speaker at any time to entertain motions to suspend the rules, notwithstanding the provisions of clause 1. rule XXVII; it shall also be in order at any time during the second session of the Seventy-third Congress for the majority leader to move that the House take a recess, and said motion is hereby made of the highest privilege; and it shall also be in order at any time during the second session of the Seventy-third Congress to consider reports from the Committee on Rules, as provided in clause 45, rule XI, except that the provision requiring a two-thirds vote to consider said reports is hereby suspended during the remainder of this session of Congress.

During the reading of the resolution the following occurred:

MR. [CARL E.] MAPES [of Michigan]: Mr. Speaker, I make a point of order.

THE SPEAKER: The gentleman will state it.

MR. MAPES: I ask for a division of the resolution.

THE SPEAKER: The resolution cannot be divided under the rule. The point of order is overruled.

MR. MAPES: Will the Speaker listen to a statement on that for a moment? My point of order is that there are three distinct substantive propositions in this resolution, and I ask for a division of the resolution.

THE SPEAKER: The Chair will read the rule. The rule states:

Any motion or resolution to elect the members or any portion of the

members of the standing committees of the House and the joint standing committees shall not be divisible, nor shall any resolution or order reported by the Committee on Rules providing a special order of business be divisible.

The point of order is overruled.

The Speaker then heard further argument on the point of order by Mr. Mapes, who cited past precedents in support of his position and argued that the resolution was "not a rule from the Committee on Rules providing for a special order of business" but a report from the Committee on Rules "to change the rules in a very substantive manner."

The Speaker ruled as follows:

The matter is perfectly clear. This rule was first adopted in 1789 and it was amended in 1837. The gentleman may find a number of precedents along the line he is discussing, which were made prior to the Seventy-third Congress. This rule, however, was amended last on May 3, 1933, by including this language:

Nor shall any resolution or order reported by the Committee on Rules, providing a special order of business be divisible.

This amendment to the rule was made for the express purpose of reaching the question which the gentleman now propounds, as will be clearly shown by the debates which occurred when the amendment to the rule was discussed. The point of order is overruled.

***Discharging Committee on Rules From Special Order***

**§ 18.44 Under the provisions of the discharge rule (Rule XXVII clause 4), a motion may be considered to discharge the Committee on Rules from the further consideration of a resolution providing for the consideration of a bill pending in another standing committee.**

On Apr. 12, 1937,<sup>(1)</sup> a motion was offered to discharge the Committee on Rules from the further consideration of a resolution providing an order of business for a bill pending in another committee; Speaker William B. Bankhead, of Alabama, overruled a point of order against the motion to discharge:

MR. [JOSEPH A.] GAVAGAN [of New York]: Mr. Speaker, I call up Calendar No. 1 on the Calendar of Motions to Discharge Committees, being motion no. 5, signed by 218 Members of the House, to discharge the Committee on Rules from further consideration of House Resolution 125.

THE SPEAKER: The Clerk will report the resolution by title.

The Clerk read as follows:

**HOUSE RESOLUTION 125**

A resolution to make H.R. 1507, a bill to assure to persons within the

jurisdiction of every State the equal protection of the laws, and to punish the crime of lynching, a special order of business.

THE SPEAKER: The gentleman from New York will be recognized for 10 minutes and the gentleman from New York [Mr. O'Conner], if he desires, will be recognized for 10 minutes in opposition to the resolution. . . .

The time of the gentleman from Illinois has expired. All time has expired.

The question is on the motion to discharge the Committee on Rules from further consideration of the resolution.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman from Mississippi will state his point of order.

MR. RANKIN: Mr. Speaker, this measure is not before the Committee on Rules; this measure is before the Committee on the Judiciary. This is a petition to discharge the Committee on the Judiciary. I make the point of order that we have no right to vote to discharge the Committee on Rules from a measure that has never been before the Committee on Rules, and that they have not had the time provided under the rules to consider.

THE SPEAKER: Has the gentleman from Mississippi concluded his point of order?

MR. RANKIN: Yes, Mr. Speaker.

THE SPEAKER: The Chair is prepared to rule upon the point of order.

The gentleman from Mississippi raises the point of order that inasmuch as the legislative bill governing this subject has not been considered by the Committee on Rules, the motion now pending is out of order. If the gen-

1. 81 CONG. REC. 3382-87, 75th Cong. 1st Sess.



tleman from Mississippi will refer to the rules with reference to the discharge of committees he will find that the form and procedure adopted by those who signed the discharge petition are specifically and unequivocally provided and that they have been scrupulously followed.

The Chair is of opinion that under that rule this resolution to discharge the Committee on Rules is in order, and the Chair overrules the point of order made by the gentleman from Mississippi.

*Parliamentarian's Note:* Rule XXVII clause 4, provides not only for a motion to discharge a committee from the consideration of a bill or resolution not acted on in 30 legislative days, but specifically provides that it shall also be in order to move, after seven legislative days, to discharge the Committee on Rules from further consideration of any resolution providing either a special order of business, or a special rule for the consideration of any public bill or resolution favorably reported by a standing committee, or a special rule for the consideration of a public bill or resolution which has remained in a standing committee 30 days or more without action.

Since the Committee on Rules originates, without their introduction, special orders, the Member seeking to discharge the committee from the consideration of a special order should introduce the

resolution in order that it may be referred to the committee.

It should further be noted that the Speaker has ruled that the motion to discharge provided for in Rule XXVII clause 4, as related to matters pending before the Committee on Rules, is limited to the special orders specified in the rule, and that the committee could not be discharged from the further consideration of a resolution creating a select committee in the House.<sup>(2)</sup>

**§ 18.45 The House has agreed to discharge the Committee on Rules from the further consideration of a special order.**

On June 13, 1932, the House agreed to a motion, offered by Mr. Wright Patman, of Texas, to discharge the Committee on Rules from the further consideration of House Resolution 220. The resolution provided a special order of business for the consideration of H.R. 7726, adversely reported from the Committee on Ways and Means, which provided for the immediate payment to veterans of the face value of their adjusted-service certificates. Following the adoption of the motion the House agreed to the resolution and pro-

2. 78 CONG. REC. 7161-63, 73d Cong. 2d Sess., Apr. 23, 1934.

ceeded to its execution on the following day (the resolution so providing).<sup>(3)</sup>

On May 11, 1936, Mr. William Lemke, of North Dakota, called up a motion to discharge the Committee on Rules from the further consideration of House Resolution 123, providing for the consideration of H.R. 2066, pending before the Committee on Agriculture, to liquidate and refinance existing agricultural indebtedness and for other purposes. The House agreed to the motion and resolution and proceeded to its execution on the following day, pursuant to the direction in the special order.<sup>(4)</sup>

On Apr. 12, 1937, Mr. Joseph A. Gavagan, of New York, called up a motion to discharge the Committee on Rules from the further consideration of House Resolution 125, making a special order of business for H.R. 1507, pending in the Committee on the Judiciary, which bill assured the equal protection of laws and punished the crime of lynching. The House agreed to the motion and then to the resolution and proceeded to its execution on the following day, pursuant to the provisions of the resolution.<sup>(5)</sup>

3. 75 CONG. REC. 12844-55, 72d Cong. 1st Sess.

4. 80 CONG. REC. 7025-27, 74th Cong. 2d Sess.

5. 81 CONG. REC. 3382-87, 75th Cong. 1st Sess.

On Dec. 13, 1937, Mrs. Mary T. Norton, of New Jersey, called up a motion to discharge the Committee on Rules from the further consideration of House Resolution 312, providing for the consideration of S. 2475 (pending in the Committee on Labor), to provide for the establishment of fair labor standards. The House agreed to the motion and to the resolution.<sup>(6)</sup>

On May 23, 1938, the House agreed to a motion to discharge the Committee on Rules from House Resolution 478, providing for the consideration of S. 2475, before the Committee on Labor, establishing fair labor standards, and then agreed to the resolution.<sup>(7)</sup>

On May 13, 1940, Mr. John E. Rankin, of Mississippi, called up a motion to discharge the Committee on Rules from the further consideration of House Resolution 444, providing for the consideration of H.R. 9000, to provide more adequate compensation for certain dependents of World War veterans, which bill was pending before the Committee on World War Veterans' Legislation. The House agreed to the motion and

6. 82 CONG. REC. 1385-89, 75th Cong. 2d Sess.

7. 83 CONG. REC. 7274-79, 75th Cong. 3d Sess.

then to the resolution and proceeded to its execution.<sup>(8)</sup>

Also on Sept. 22, 1942, the Committee on Rules was discharged from the further consideration of House Resolution 110, providing for the consideration of H.R. 1024, to amend "an act to prevent pernicious political activities." The resolution was then agreed to.<sup>(9)</sup>

On May 24, 1943, the Committee on Rules was discharged from the further consideration of House Resolution 131, providing for the consideration of a bill pending before the Committee on the Judiciary, H.R. 7, making unlawful the requirement for a poll tax as a prerequisite to voting. The House agreed to the resolution.<sup>(10)</sup>

On June 11, 1945, Mr. Vito Marcantonio, of New York, called up a motion to discharge the Committee on Rules from the further consideration of House Resolution 139, providing for the consideration of H.R. 7, pending before the Committee on the Judiciary, which bill made unlawful the requirement for the payment of a

poll tax as a prerequisite to voting in a primary or other election for national officials. The motion was agreed to and the House then agreed to the resolution. Pursuant to the provisions of the resolution, the House resolved itself into the Committee of the Whole on the following day for the consideration of the bill.<sup>(11)</sup>

On Aug. 9, 1954, the House agreed to a motion to discharge the Committee on Rules from the consideration of House Resolution 590, providing for the consideration of H.R. 9245 (before the Committee on Post Office and Civil Service) to establish a joint congressional committee to make studies and recommendations in respect to the postal service.<sup>(12)</sup>

On July 22, 1957, the House agreed to a motion to discharge the Committee on Rules from the consideration of House Resolution 249, providing for the consideration of H.R. 2474 (pending in the Committee on Post Office and Civil Service) to increase certain rates of compensation in the postal service.<sup>(13)</sup>

On June 15, 1960, the House agreed to House Resolution 537,

8. 86 CONG. REC. 5973-75, 76th Cong. 3d Sess.

9. 88 CONG. REC. 7310, 7311, 77th Cong. 2d Sess.

10. 89 CONG. REC. 4807-13, 78th Cong. 1st Sess.

11. 91 CONG. REC. 5892-96, 79th Cong. 1st Sess.

12. 100 CONG. REC. 13736-40, 83d Cong. 2d Sess.

13. 103 CONG. REC. 12332-35, 85th Cong. 1st Sess.

providing for the consideration of H.R. 9883, to adjust rates of compensation for federal officials and employees (pending before the Committee on Post Office and Civil Service). The resolution had been brought before the House by way of a motion to discharge the Committee on Rules from its further consideration.<sup>(14)</sup>

On Sept. 27, 1965, Mr. Abraham J. Multer, of New York, called up a motion to discharge the Committee on Rules from the further consideration of House Resolution 515, making in order the consideration and providing for the motion of consideration of H.R. 4644, pending before the Committee on the District of Columbia, which bill provided an elected Mayor, City Council, and nonvoting Delegate to the House of Representatives for the District of Columbia, and for other purposes. The House agreed to the motion and then to the resolution and proceeded to its execution by resolving into the Committee of the Whole for general debate on the bill.<sup>(15)</sup>

***Considering Motion to Discharge Committee on Rules***

**§ 18.46 If a motion to discharge the Committee on Rules from**

14. 106 CONG. REC. 12691-93, 86th Cong. 2d Sess.

15. 111 CONG. REC. 25180-25186, 89th Cong. 1st Sess.

**the further consideration of a special order is agreed to, the resolution is read by the Clerk and the question immediately occurs, without debate or other intervening motion, on agreeing to the resolution.**

On Sept. 27, 1965,<sup>(16)</sup> Mr. Abraham J. Multer, of New York, called up motion No. 5, on the Discharge Calendar, to discharge the Committee on Rules from the further consideration of House Resolution 515, providing for the consideration of H.R. 4644, a "home rule" bill for the District of Columbia. Speaker John W. McCormack, of Massachusetts, answered parliamentary inquiries on the procedure for consideration of the resolution should the motion to discharge be adopted:

THE SPEAKER: The Chair will state that under the rule on the question of discharge there is 20 minutes, 10 minutes to the side, and that will close debate on the motion. The House will then vote on the adoption of House Resolution 515 without debate or other intervening motions.

MR. SMITH of Virginia: And, as I understand it, then there will be no opportunity to discuss the resolution itself on which we are about to vote?

THE SPEAKER: Not under the standing rules of the House.

16. 111 CONG. REC. 25180, 25181, 89th Cong. 1st Sess.

MR. SMITH of Virginia: Now, Mr. Speaker, a further parliamentary inquiry. Will it be in order to move the previous question on the resolution?

THE SPEAKER: The Chair will state that under the rules of the House in a matter of this kind there is no debate and the previous question will not be in order.<sup>(17)</sup>

*Parliamentarian's Note:* Rule XXVII clause 4 specifically provides that if the motion to discharge prevails to discharge the Committee on Rules from any resolution, the House shall immediately vote on the adoption of the resolution, without intervening motion except to adjourn, and if the resolution is adopted immediately proceed to its execution.

**§ 18.47 In response to a parliamentary inquiry, the Speaker advised that debate on a motion to discharge the Committee on Rules from further consideration of a special order is limited to 20 minutes—10 minutes under control of the Member recognized to call up the motion and 10 minutes under control of a Member recognized in opposition.**

On Sept. 27, 1965,<sup>(18)</sup> there was pending before the House a mo-

tion offered by Mr. Abraham J. Multer, of New York, to discharge the Committee on Rules from the further consideration of House Resolution 515, making in order the consideration and providing for the method of consideration of H.R. 4644, a "home rule" bill pending before the Committee on the District of Columbia. Speaker John W. McCormack, of Massachusetts, answered parliamentary inquiries as to the debate on the motion:

MR. [HOWARD W.] SMITH of Virginia: Now, Mr. Speaker, that resolution waives points of order. There are grave points of order in the bill that is to be recognized. The question I want to ask is whether there will be an opportunity in debate on the rule to advise the House of the facts that it does waive the points of order and that there are points of order with which the House ought to be made familiar.

THE SPEAKER: The Chair will state that under the rule on the question of discharge there is 20 minutes, 10 minutes to the side, and that will close debate on the motion. The House will then vote on the adoption of House Resolution 515 without debate or other intervening motions.

MR. SMITH of Virginia: And, as I understand it, then there will be no opportunity to discuss the resolution itself on which we are about to vote?

THE SPEAKER: Not under the standing rules of the House.

Pursuant to Rule XXVII, the Speaker recognized, for debate on

17. See also 91 CONG. REC. 5892-96, 79th Cong. 1st Sess., June 11, 1945; and 86 CONG. REC. 5973-75, 76th Cong. 3d Sess., May 13, 1940.

18. 111 CONG. REC. 25180, 25181, 89th Cong. 1st Sess.

the motion to discharge, Mr. Multer for 10 minutes in favor of the motion and John L. McMillan, of South Carolina (the Chairman of the Committee on the District of Columbia) for 10 minutes in opposition to the motion.

**§ 18.48 When a motion to discharge the Committee on Rules from the further consideration of a special order is called up, the chairman of the committee is not entitled to recognition for the purpose of debate unless he is opposed to the motion.**

On Dec. 13, 1937,<sup>(19)</sup> where there was pending before the House a motion to discharge the Committee on Rules from the further consideration of a special order, Speaker William B. Bankhead, of Alabama, answered parliamentary inquiries on recognition in opposition to the motion:

MR. [MARTIN] DIES [Jr., of Texas]: Mr. Speaker, under the rules of the House, as I understand, 20 minutes is to be allowed to a discussion of whether or not the Rules Committee will be discharged, 10 minutes to the proponents and 10 minutes to the opponents. As a member of the committee, I ask for recognition and for the 10 minutes in opposition to the discharge of the committee.

19. 82 CONG. REC. 1385, 1386, 75th Cong. 2d Sess.

MR. [JOHN J.] O'CONNOR of New York: Mr. Speaker, in connection with the parliamentary inquiry, may I say that heretofore on all motions to discharge the Rules Committee the chairman of the Rules Committee has been recognized for the 10 minutes in opposition to the motion, and that irrespective of whether he personally was opposed to the motion.

I appreciate the exact language of the rule, but I recall the precedents of the bonus bills on several occasions, the Frazier-Lemke bill, and the anti-lynching bill. Of course, if the Speaker is going to rule that under a strict compliance with the discharge rule that anybody recognized for the second 10 minutes must be opposed to the motion to discharge, I may say to my colleague from Texas on the Rules Committee that, as he well knows, I have always been in favor of the wage and hour bill. I have made speeches in favor of such a bill on the floor of this House, in the Democratic caucus, and publicly. . . .

THE SPEAKER: In answer to the parliamentary inquiry of the gentleman from Texas [Mr. Dies], a member of the Rules Committee, the Chair thinks it proper to read the rule in connection with this matter of the control of time so there may be no confusion about the interpretation of the rule:

When any motion under this rule shall be called up, the bill or resolution shall be read by title only. After 20 minutes' debate, one-half in favor of the proposition and one-half in opposition thereto, the House shall proceed to vote on the motion to discharge.

The Chair recalls that on some former occasions the Chairman of the

Rules Committee has been recognized in opposition to the motion; but in view of the fact that the gentleman from Texas has asked an interpretation of the rule and proposes himself to qualify in opposition to the rule, and in view of the statement of the gentleman from New York [Mr. O'Connor], the chairman of the Rules Committee, that he cannot qualify in opposition, the Chair feels impelled to rule that if someone desires to be recognized who qualifies in opposition to the rule, he should be recognized under the provisions of the rule.

**§ 18.49 The House having agreed to a resolution discharging the Committee on the District of Columbia from further consideration of a bill, the Speaker designated the chairman of that committee to control time in opposition to the bill during consideration in the Committee of the Whole.**

On Sept. 27, 1965,<sup>(20)</sup> the House agreed to a motion, called up by Mr. Abraham J. Multer, of New York, to discharge the Committee on Rules from the further consideration of House Resolution 515, providing for the consideration of H.R. 4644 (to provide an elected Mayor, City Council, and non-voting Delegate to the House of Representatives for the District of

Columbia, and for other purposes). The question was put on the resolution and it was agreed to. Pursuant to the language of the resolution, which specified that general debate on the bill in Committee of the Whole be equally divided and controlled by one of several Members designated in the bill and in favor of the bill and "a Member who is opposed to the bill to be designated by the Speaker," Speaker John W. McCormack, of Massachusetts, designated John L. McMillan, of South Carolina, Chairman of the Committee on the District of Columbia, to control the time in opposition to the bill.

**§ 18.50 The motion to lay on the table a resolution providing a special order of business, taken away from the Committee on Rules through the operation of the discharge rule, is not in order.**

On June 11, 1945,<sup>(1)</sup> the House agreed to a motion to discharge the Committee on Rules from the further consideration of a special order of business, providing for the consideration of a public bill pending in the Committee on the Judiciary. Pursuant to Rule

20. 111 CONG. REC. 25185, 25186, 89th Cong. 1st Sess.

1. 91 CONG. REC. 5892-96, 79th Cong. 1st Sess.

XXVII, Speaker Sam Rayburn, of Texas, put the question on the adoption of the resolution. Mr. John E. Rankin, of Mississippi, sought to move to lay the resolution on the table, but the Speaker advised that the motion was not in order.

**§ 18.51 The Speaker stated in response to a parliamentary inquiry that the motion for the previous question may not be applied to a resolution from the Committee on Rules brought up under a motion to discharge since the resolution itself is not debatable under the rule.**

On Sept. 27, 1965,<sup>(2)</sup> there was pending before the House a motion to discharge the Committee on Rules from the further consideration of a special order providing for the consideration of a public bill pending before another standing committee. Speaker John W. McCormack, of Massachusetts, answered parliamentary inquiries on the procedure for consideration of the resolution should the motion to discharge be adopted:

THE SPEAKER: The Chair will state that under the rule on the question of discharge there is 20 minutes, 10 minutes to the side, and that will close de-

bate on the motion. The House will then vote on the adoption of House Resolution 515 without debate or other intervening motions.

MR. [HOWARD W.] SMITH of Virginia: And as I understand it, then there will be no opportunity to discuss the resolution itself on which we are about to vote?

THE SPEAKER: Not under the standing rules of the House.

MR. SMITH of Virginia: Now, Mr. Speaker, a further parliamentary inquiry. Will it be in order to move the previous question on the resolution?

THE SPEAKER: The Chair will state that under the rules of the House in a matter of this kind there is no debate and the previous question will not be in order.

***Twenty-one Day Discharge Rule***

**§ 18.52 The 90th Congress deleted from the rules of the House the "21-day" rule, providing for discharge of certain Committee on Rules resolutions, which rule had been included in the rules of the 89th Congress (as a modification of the rule in effect in the 81st Congress).**

On Jan. 10, 1967, Carl Albert, of Oklahoma, the Majority Leader, offered House Resolution 7, adopting as the rules of the House those rules in effect in the 89th Congress. The House rejected the previous question and subse-

2. 111 CONG. REC. 25180, 25181, 89th Cong. 1st Sess.



quently adopted the resolution with an amendment deleting from the rules the "21-day" discharge rule contained in Rule XI clause 23 of the 89th Congress.<sup>(3)</sup>

In the 89th Congress, the House had adopted House Resolution 8, offered by Mr. Albert, which amended Rule XI clause 23 to reinstate the 21-day rule in effect in the 81st Congress, with modification:

. . . In rule XI, strike out clause 23 and insert:

"23. The Committee on Rules shall present to the House reports concerning rules, joint rules, and order of business, within three legislative days of the time when ordered reported by the committee. If such rule or order is not considered immediately, it shall be referred to the calendar and, if not called up by the Member making the report within seven legislative days thereafter, any member of the Committee on Rules may call it up as a question of privilege and the Speaker shall recognize any member of the Committee on Rules seeking recognition for that purpose. If the Committee on Rules shall adversely report or fail to report within twenty-one calendar days after reference, any resolution pending before the committee providing for an order of business for the consideration by the House of any public bill or joint resolution favorably reported by a committee of the House, on days when it is in order to call up mo-

tions to discharge committees, it may be in order as a matter of the highest privilege for the Speaker, in his discretion, to recognize the chairman or any member of the committee which reported such bill or joint resolution who has been so authorized by said committee to call up for consideration by the House the resolution which the Committee on Rules has so adversely reported, or failed to report, and it shall be in order to move the adoption by the House of said resolution adversely reported, or not reported, notwithstanding the adverse report, or the failure to report, of the Committee on Rules. Pending the consideration of said resolution the Speaker may entertain one motion that the House adjourn; but after the result is announced he shall not entertain any other dilatory motion until the said resolution shall have been fully disposed of."<sup>(4)</sup>

Mr. Albert and Speaker John W. McCormack, of Massachusetts, discussed the purpose of the 21-day rule:

MR. ALBERT: Mr. Speaker, this resolution, if adopted, would restore the 21-day rule which was in effect during the 81st Congress, with some modifications.

Mr. Speaker, it would enable the Speaker, after a resolution had been before the Committee on Rules for 21 days or more, to recognize the chairman or other members of the legislative committee from which the bill emanated to discharge the Committee

3. 113 CONG. REC. 28-33, 90th Cong. 1st Sess.

4. 111 CONG. REC. 21-25, 89th Cong. 1st Sess., Jan 10, 1965.

on Rules on a day set aside for discharging committees. . . .

The purpose of these two changes in the rules, of course, is to expedite the business of the House and to make available other methods of handling the legislative business of the House. They do not seek to change any of the rules governing the Committee on Rules or other procedures, all of which are left intact. . . .

MR. MCCORMACK: Mr. Speaker, as this resolution involves changes in the rules, I feel that my views should be made known to the Members of the House. I strongly favor the resolution offered by the gentleman from Oklahoma [Mr. Albert]. I think the 21-day rule is a rule that is for the benefit of the individual Members of the House without regard to party affiliation in giving them the opportunity of passing upon legislation that has been reported out of a standing committee. Some Members may construe it as an attack on the Committee on Rules, but it is not. It is a strengthening of the rules of the House in the direction of the individual Member having an opportunity to pass upon legislation that has been reported out of a standing committee and which has been pending before the Committee on Rules for 21 days or more. We had this rule some few Congresses ago for one Congress. The reason it was not continued is simply and frankly that we did not have the votes. When it was adopted, it was not adopted as a permanent part of the rules but for one Congress. In following Congresses we did not have the votes. So it is not a question whether the advocates of the 21-day rule felt that it was not workable. I have always felt throughout the years that it would be

a strengthening influence not only on the rules of the House but on each Member of the House and on the House collectively in the matter of expressing the will of the House to have the 21-day rule incorporated as a part of the rules of the House.

*Parliamentarian's Note:* As the "21-day" rule is no longer in effect, the following principles as to the use of that rule are included for their historical significance.

A Member calling up a resolution under the 21-day rule was recognized for one hour and could yield to other Members in his discretion; he was not bound by the customary practice of the Committee on Rules that one-half of the time be yielded to the minority.<sup>(5)</sup> But Members calling up such resolutions did on occasion yield half of the time to the minority.<sup>(6)</sup> Where the Member calling up a resolution under the rule did not debate the resolution or move the previous question, the Speaker put the question on agreeing to the resolution.<sup>(7)</sup> The regular discharge rule under Rule XXVII clause 4, requiring recogni-

5. 111 CONG. REC. 18076, 18077, 89th Cong. 1st Sess., July 26, 1965.

6. 111 CONG. REC. 23609, 23610, 89th Cong. 1st Sess., Sept. 13, 1965; and 111 CONG. REC. 18076, 89th Cong. 1st Sess., July 26, 1965.

7. 111 CONG. REC. 23607, 89th Cong. 1st Sess., Sept. 13, 1965.

tion for discharge motions to be in the order in which entered on the Journal, had no application to the 21-day rule under Rule XI clause 23.<sup>(8)</sup>

Business in order under the "21-day rule" was of the highest privilege and took precedence over District of Columbia business under Rule XXIV clause 8.<sup>(9)</sup> A motion to recommit a resolution called up under the rule was not in order, since Rule XI clause 23 prohibited any dilatory motion, except one motion to adjourn, after consideration of the resolution had begun.<sup>(10)</sup> On one occasion, the House remained in session until 12:31 a.m. and adjourned until noon on the same day following the adoption of several resolutions called up under the "21-day rule" and on which there were attempts to thwart action.<sup>(11)</sup>

Under the 21-day rule in effect in the 81st Congress, only the chairman of a committee could call up a resolution not reported

by the Committee on Rules within 21 days,<sup>(12)</sup> and one motion to adjourn was in order during the consideration of a resolution under the rule.<sup>(13)</sup> And where a member of a committee (not the chairman) had been directed to call up the resolution by the committee, he advised the House of the committee's delegation of authority.<sup>(14)</sup>

**§ 18.53 Forms of special orders introduced under the discharge rule, providing for creation of special orders upon adoption, providing that a designated Member be recognized to call up the resolution, and providing that the special order be the continuing order of business until disposed of.**

The following are examples of special orders containing the above provisions:

HOUSE RESOLUTION 123

*Resolved*, That upon the day succeeding the adoption of this resolution a special order be, and is hereby, created by the House of Representatives

8. 111 CONG. REC. 23618, 89th Cong. 1st Sess., Sept. 13, 1965.
9. 111 CONG. REC. 23606, 89th Cong. 1st Sess., Sept. 13, 1965; and 111 CONG. REC. 18076, 89th Cong. 1st Sess., July 26, 1965.
10. 111 CONG. REC. 18087, 89th Cong. 1st Sess., July 26, 1965.
11. 111 CONG. REC. 23624, 89th Cong. 1st Sess., Sept. 13, 1965.

12. 95 CONG. REC. 13181, 81st Cong. 1st Sess., Sept. 22, 1949.
13. 96 CONG. REC. 772, 781, 81st Cong. 2d Sess., Jan. 23, 1950; and 95 CONG. REC. 10094, 81st Cong. 1st Sess., July 25, 1949.
14. 111 CONG. REC. 23621, 89th Cong. 1st Sess., Sept. 13 1965.

for the consideration of H.R. 2066, a public bill which has remained in the Committee on Agriculture for 30 or more days without action. That such special order be, and is hereby created, notwithstanding any further action on said bill by the Committee on Agriculture or any rule of the House. That on said day the Speaker shall recognize the Representative at Large from North Dakota, William Lemke, to call up H.R. 2066, a bill to liquidate and refinance existing agricultural indebtedness at a reduced rate of interest by establishing an efficient credit system, through the use of the Farm Credit Administration, the Federal Reserve Banking System, and creating a board of agriculture to supervise the same, as a special order of business, and to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of said H.R. 2066. After general debate, which shall be confined to the bill and shall continue not to exceed 6 hours, to be equally divided and controlled by the Member of the House requesting the rule for the consideration of said H.R. 2066 and the Member of the House who is opposed to the said H.R. 2066, to be designated by the Speaker, the bill shall be read for amendment under the a-minute rule. At the conclusion of the reading of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto to final passage, without intervening motion, except one motion to recommit. The special order shall be a continuing order until the bill is finally disposed of.<sup>(15)</sup>

15. 80 CONG. REC. 7025-27, 74th Cong. 2d Sess., May 11, 1936.

## HOUSE RESOLUTION 125

*Resolved*, That upon the day succeeding the adoption of this resolution, a special order be, and is hereby, created by the House of Representatives, for the consideration of H.R. 1507, a public bill which has remained in the Committee on the Judiciary for 30 or more days, without action. That such special order be, and is hereby, created, notwithstanding any further action on said bill by the Committee on the Judiciary, or any rule of the House. That on said day the Speaker shall recognize the Representative from New York, Joseph A. Gavagan, to call up H.R. 1507, a bill to assure to persons within the jurisdiction of every State the equal protection of the laws, and to punish the crime of lynching, as a special order of business, and to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of said H.R. 1507. After general debate, which shall be confined to the bill and shall continue not to exceed 6 hours, to be equally divided and controlled by the Member of the House requesting the rule for the consideration of said H.R. 1507 and the Member of the House who is opposed to the said H.R. 1507, to be designated by the Speaker, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill, and the amendments thereto, to final passage, without intervening motion, except one motion to recommit.

The special order shall be a continuing order until the bill is finally disposed of.<sup>(16)</sup>

## HOUSE RESOLUTION 139

*Resolved*, That upon the day succeeding the adoption of this resolution, a special order be, and is hereby, created by the House of Representatives, for the consideration of H.R. 7, a public bill which has remained in the Committee on the Judiciary for 30 or more days without action. That such special order be, and is hereby, created, notwithstanding any further action on said bill by the Committee on the Judiciary, or any rule of the House. That on said day the Speaker shall recognize the Representative from New York, Vito Marcantonio, to call up H.R. 7, a bill making unlawful the requirement for the payment of a poll tax as a prerequisite to voting in a primary or other election for national officers, as a special order of business, and to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of said H.R. 7. After general debate, which shall be confined to the bill and shall continue not to exceed 2 hours, to be equally divided and controlled by the Member of the House requesting the rule for the consideration of said H.R. 7 and the Member of the House who is opposed to the said H.R. 7, to be designated by the Speaker, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the bill to the House with such amend-

ments as may have been adopted, and the previous question shall be considered as ordered on the bill, and the amendments thereto, to final passage, without intervening motion, except one motion to recommit. The special order shall be a continuing order until the bill is finally disposed of.<sup>(17)</sup>

## HOUSE RESOLUTION 515

*Resolved*, That upon the adoption of this resolution the Speaker shall recognize Representative Abraham J. Multer, or Representative Carlton R. Sickles, or Representative Charles McC. Mathias, Junior, or Representative Frank J. Horton to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4644) to provide an elected mayor, city council, and nonvoting Delegate to the House of Representatives for the District of Columbia, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill and continue not to exceed five hours, to be equally divided and controlled by one of the aforementioned Members and a Member who is opposed to said bill to be designated by the Speaker, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of such consideration the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final

16. 81 CONG. REC. 3386, 3387, 75th Cong. 1st Sess., Apr. 12, 1937.

17. 91 CONG. REC. 5892, 79th Cong. 1st Sess., June 11, 1945.

passage without intervening motion except one motion to recommit, with or without instructions. After the passage of H.R. 4644, the Committee on the District of Columbia shall be discharged from the further consideration of the bill S. 1118, and it shall then be in order in the House to move to strike out all after the enacting clause of said Senate bill and insert in lieu thereof the provisions contained in H.R. 4644 as passed. This special order shall be a continuing order until the bill is finally disposed of.<sup>(18)</sup>

## § 19. Interpretation and Effect

Since the interpretation and effect of special orders depends on their exact language and purpose, few general principles can be laid down in that regard.

While the general effect of the adoption of a resolution making in order the consideration of a bill is to give to the bill a privileged status, the adoption of the resolution making in order the consideration of a bill does not make the consideration of the bill mandatory unless so stated therein, and the bill must still be called up by a Member designated in the resolution or authorize by the committee to do so.<sup>(19)</sup>

18. H. Res. 515, 111 CONG. REC. 25185, 89th Cong. 1st Sess., Sept. 27, 1965.

19. See § 19.9, *infra*.

The Speaker in the House and the Chairman in the Committee of the Whole are often requested to interpret the effect of a pending or adopted order of business resolution. In responding to such inquiries, the Chair may rely upon the legislative history of the resolution, including hearings on the resolution, statements as to purpose and intent made by members of the Committee on Rules, and debate on the resolution in the House.<sup>(1)</sup> But the actions of the Committee on Rules in construing the rules of the House and their application to factual situations are not binding on the Chair, who has the responsibility to interpret the rules when the question is properly presented.<sup>(2)</sup>

The Speaker may decline to answer parliamentary inquiries, stated in the House, as to parliamentary situations which may arise in the Committee of the Whole when operating under a resolution affecting the order of business; such questions are properly presented, when they arise, to the Chairman of the Committee of the Whole.<sup>(3)</sup> The Speaker, moreover, will not entertain points of order against such resolutions on the ground that they

1. See §§ 19.1–19.3, *infra*.

2. See § 19.3, *infra*.

3. See §§ 19.4, 19.5, *infra*.